A *FULL*

ANSWER

To all the

PARTICULARS

Contained in a

BOOK,

ENTITULED,

Argumentum Antinormanicum,

OR AN

ARGUMENT

Againſt the ASSERTION, That

William the Firſt

CONQUERED

ENGLAND,

And Governed as a

CONQUEROR;

And alſo to what Sir *Edward Coke*, Mr. *Selden* and others have ſaid upon the ſame Subject.

In which the Partiality and Ignorance, or Diſingenuity and ſlye Practices of this Writer, and the Miſtakes of others are detected, and many dark Paſſages of Hiſtory and Antiquity, commonly miſtaken and miſunderſtood, are Explained, and their true Meaning Diſcovered.

In the *SAVOY*,

Printed by *T. N.* for *Samuel Lowndes*, over againſt *Exeter-Exchange* in the *Strand*. MDCLXXXIV.

A TRUE

ANSWER

TO THE

PARTICULARS

[illegible]

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Argumentum Antinomicum.

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Against the Assertion, that

William the First

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[illegible]

CONQUEROR

And also to what Sir Edward Coke, Mr. Selden, and others have said upon the same Subject.

In which the Partiality and Ignorance, or Dissimulation and five Practices of this Writer, and the Mistakes of others are detected, and many dark Passages of History and Antiquity, commonly mistaken and misunderstood, are Explained, and that true Memorial Discovered.

In the Second,

Printed by T. N. for Samuel Lowndes, [illegible] Exchange in the Strand. MDCLXXXIV.

AN ANSWER TO A BOOK ENTITULED, *Argumentum Antinormanicum*, &c.

THis Book is for the most part the *Preface* to Mr. *Petyt*'s *Rights of the Commons Asserted*, &c. put into a *new Method*, and that *Preface* is collected out of the several *Prefaces* to Sir *Edward Cokes* Third, Fourth, Eighth, and Ninth *parts* of his Reports, or Mr. *Seldens Discourse upon* this Subject in the (1.) *Review* of his *History of Tithes*, transcribed in this Book from *pag.* 37. to 46, as may appear to any one that will take the pains to compare them.

(1.) pag. 481, 483. 484.

The Method he here useth (for 'tis the same Author still in Masquerade) is propounding and answering four Questions.

The first Question is, Page 4.

Whether *William* Duke of *Normandy* (who was afterwards *William* the First) *got the Imperial Crown of* England *by the Sword, and made an absolute Conquest* of the *Nation* at his *first* Entrance.

This *Question* is not truly stated, for it ought not to be put, whether at his first Entrance or Invasion he obtained the Crown by the Sword, *but whether in process of time, and by degrees, he did not by force and artifice make an absolute Conquest of the Nation?* For we are not so much to *Consider* what he did upon his *first Invasion* of *England*, or for some short time after, as to *take notice* of his *Establishment*, and *Government*, when it was *wholly* under his *power*, and that by the daily *accession* of *Normans* or other *Foreigners*, and by *building* very many *Castles* and *Forts* in all parts of the *Nation*, and placing *Garisons* in them, he had *secured* himself and those that came with him. The Question not truly stated.

We seldom, or never read of any one who designed to Conquer a Nation or People, that told them before hand, that he would *deprive* them of their Estates or Fortunes, *give* them new *Laws*, or *abridge* their *Liberties*, especially if he had any pretence of a Title,

as Duke *William* then had to *England*, the (3.) Donation and Grant of *Edward* the Confessor, *confirmed*, or at least *allowed* by the *Popes* incouraging and sending him a (4) Banner.

(3.) *Gul. Pict. f.* 191. A. B. *Ingulph. f.* 512. *l.* n. 40. *Selden* in his Review of Tithes says this Donation was a lawful Title, p. 482.
(4.) *Pictav. f.* 197. C. *Ingulph. f.* 512. *a. lin.* 7.

Hence it was that *Guillelmus Pictaviensis* first, and *Ordericus Vitalis* from him, do sometimes report *William* the *Conquerors smooth behaviour* toward the *English*, and his equal and just dealings with them, upon his first Entrance into the Kingdom, and four or five years afterward. A

(5.) *f.* 207. C. D. 208. A. B.

Pictaviensis (5.) says, after he was at *Christmass* Crowned at *London*, he ordered many things *prudently*, *justly*, and *mildly*, some to the *profit* and *dignity* of that *City*, some to the *advantage* of the *whole Nation*, and other some to the *benefit* of the *Churches* of the Land; *whatever Laws he Dictated, he Established with Excellent Reason.* No Person in any Matters asked of him right Judgment, he Condemned none, unless such as it had been a Sin not to have Condemned, with *gravity* he Commanded things worthy of themselves to be performed by his Prime Men, and diligently perswaded them to *Equity*, that they should have continually before their Eyes, the *Eternal King*, by whose *power* they overcame, that the *Conquered* ought not *too much* to be *oppressed*, being *equal* to their *Conquerors* in the *profession* of *Christianity*, lest by Injuries they should *force* those to *Rebel* whom they had *justly* subdued. He prohibited *Sedition*, *Slaughter*, and all *Rapine*, restraining the People with *Arms*, and Arms with Laws; He imposed Tribute, and every thing that was to be paid into the Exchequer moderate, and without Grievance; *Thefts*, *Intrusions*, Evil Doings were not *allowed* in his *Territories*, the Ports and all Passages were open to *Merchants* and *Traffiquers*, and he commanded they should receive no Injury, (6.) so the beginning of his *Reign* was altogether fair and just. The *Latin*, whereof this is a *Translation* word for word, is *Transcribed* by (7.) *Ordericus* out of *Pictaviensis*, and is Cited by this Author from *Ordericus*, *pag.* 89. of which he gives only the sense, and wrests it to his own purpose, *pag.* 91. or as it is false Printed 41. B C D

The Justice and Equity of the Conqueror at his first Entrance.

Minimum opprimi victos non oportere victoribus professione Christianæ partes.

(6.) *Ibidem.*

(7) *f.* 505. C. 506. A.

His Artifice.

These *Actions* of the *Conqueror* were all *Artifice* to make the *English* secure, while he did his own *Business*, for immediately after this, both these Authors Report (8.) that *William left* the *City*, and staid some time at *Barking* in *Essex*, until certain *Castles* and *Forts* were finished *in* the *City*, to keep the People in subjection, and that from thence he went into *other parts* of the Kingdom, and ordained things profitable for himself and the Inhabitants. And appointing *Trusty* and *Stout Frenchmen Governors* in his *Castles* which were *Garisoned*, with many Horse and Foot, in *March* following he *passed* into *Normandy*, taking with him as Hostages *Stigand* the *Arch-Bishop*, *Edgar Atheling*, the three *great Earls*, Edwin, Morcar, and Waltheof, with very many others of the Chief *Nobility* for the *security* of his *New* Conquests. E F

(8.) *Ibid.* B. C. & *Pictav. f.* 208. B. 209. B. C.

(9.) *Ibidem.*
(1.) *f.* 208. C.

They (9.) both further say, he gave the *Governors* of *Castles* great *Estates* in *England*, and (1.) *Pictaviensis* adds these words to his Report, *Nulli tamen Gallo datum est Quod Anglo cuiquam injuste fuerit ablatum.* That no *Frenchman* had any thing given him which was *unjustly* taken from an *Englishman.*

Ordericus

Ordericus that moſt commonly Tranſcribes not only the Matter but the words of *Pictavienſis*, omits this paſſage, as knowing it not to be according to truth, for alth ugh he was (2.) *Chaplain* to the Conqueror and wrote his Acts, *ſuch* as *he ſaw*, and *was preſent at*, yet (3.) through *croſs Events* was hindred writing the whole Life of this *Duke* and *King*, and brought his *Hiſtory* no farther than the year 1070. as *Ordericus* in that year tells us. 4. *Hic uſque Guliel-*
A *mus Pictavinus Hiſtoriam ſuam texuit in qua Guilelmi Geſta ſubtiliter & Eloquenter Enucleavit.* And ſo far as he wrote *Oraericus* Tranſcribed, interpoſing ſome things of his own, though now we have nothing further of this Hiſtory after the (4.) *death* of *Earl Coxo*, which happened in the (5.) year 1067. ſo that both *Pictavienſis*, and *Ordericus* in what he reports from him are *incompetent* Witneſſes of Duke *Williams Eſtabliſhment* in *England*, it being for the greateſt part made and perfected *after the time* of *Pictavienſis* his Writing.

(2.) *Orderic. f.* 503. D. 504. A.
(3.) *Ibidem.*
(4) *Pictav. f.* 212. D. 213. A.
(5.) *Order. f.* 509. A.

B And whatſoever theſe *Hiſtorians* ſay of *William* the Firſt in the *beginning* of his Reign, who ever *attends* to his *Actions*, (6.) *as drawing his Army about* Weſtminſter *Abby on the day and the time of his Coronation, his building Fortreſſes and Caſtles within the City of* London, *and placing* Norman *Gariſons and* French *Governors or Caſtellanes in the Caſtles in the Country, and giving them great Eſtates,*
C *his carrying the Chiefs of the* Engliſh *Nobility with him as Hoſtages into* Normandy, *(which was but an honourable Impriſonment) and his Dictating Laws*, cannot but *believe*, he intended to *Rule* as a *Conqueror* and by the *Sword* from the very beginning.

(6.) *Pictav. f.* 206. A.
William at firſt act. d like a Conqueror.

This in general is a *ſufficient Reply* to what this Author hath ſaid in the *ſolution* of his *firſt* Queſtion, but foreſeeing he will by another *Method* and another *Title* make a new Book of the *ſame Materials*, if all his trifling Inſtances be not refuted, I ſhall particularly
D conſider what he hath ſaid in verification of his Anſwer to it.

He ſays *William* laid a far *greater ſtreſs* upon his *Claim* and *Titles* to this Kingdom, than ever he did upon his *great* and *mighty Conqueſt*, which he affirms to be evident from the Particulars following.

Antinorm. p. 5.

E Firſt, In that before his Conqueſt, *when the People had choſen Harold*, the Son of *Earl Godwin*, for their King, after the death of *Edward* the *Confeſſor*, and had put aſide *Edvard Ætheling*, by right of *Blood* and *Inheritance* Entitled to the Crown. This *Norman Duke* made his loud Complaints of the *Injuries* done him in not *Electing* him, for he was *Coſen German* to the *Confeſſor* who *died* without Iſſue, and therefore pretended the Right truly devolved upon him.

Ibidem, & jus Angl. ab antiquo, p. 38.

F What is here ſaid concerning the choice of *Harold*, and inſinuated on purpoſe to abuſe unwary Men, and cheat them into a belief that this is an Elective Monarchy, is not true, if we may credit the beſt Hiſtorians, and ſuch as lived neareſt the matter of Fact. *Pictavienſis* tells (6.) us, That *perjurus Haraldus Regium Solium cum plauſu occupavit, quibuſdam iniquis faventibus.* Perjured *Herald uſurped* the Royal Throne, a few wicked Perſons favouring him. (7.) *Ingulphus*

Harold was not Elected King.
(6.) *f.* 196. D.
(7.) *f.* 511. *b. n.* 50.

gulphus says, *Throno regio se intrusit.* That he thrust himself into the Royal Throne. (8.) *William* of *Malmsbury* reports, That *Extorta a Principibus fide, extripuit Diadema, quamvis multi dicunt a Rege Edwardo Concessum. Quod tamen magis Benevolentiæ quam Judicio allegari Existimo* (saith the same Historian) *ut illi Hæreditatem transfunderet suam, cujus semper suspectam habuerit potentiam.* Having extorted an Oath of Fidelity from the Principal Men of the Nation, he seized the *Diadem*, although the *English* Report, it was given him by King *Edward*, which yet was (as *Malmsbury* thought) alledged rather out of *kindness* to *Harold* than *belief*, or *judgment*, that he should transfer his *Kingdom* or *Inheritance* to him, whose *power* he always *suspected*. With these agrees *Hen.* of *Huntingdon*, whose words are, (9.) *Haraldus viribus & genere fretus, Diadema invasit. Harald* by *force* and the *assistance* of his *Relations* and *Kindred* invaded the *Crown*. * This is *Testimony* enough to shew that *Harold* was not Elected; and though *Florence* of *Worcester* says he was *Elected*, yet he could mean no other thing by it, then that he was received, and submitted to as King. Or, that as these five Historians (two whereof were *living* when the thing was done, and two of the other not long after) do report, that he *set* the *Crown* upon his own Head by *force*, *fraud*, and the *assistance* of his powerful Kindred and Friends. His words are these, (1.) *Rex Edwardus Epiphaniæ Domini sigillo, mortem obiit Londoniæ, & in Crastino sepultus, Regio more, Quo sumpto, Subregulus Haraldus, Godwini Ducis filius, quem Rex ante suum Decessionem, Regni successorem Elegerat, a totius Angliæ primatibus, ad Regale Culmen Electus, die eodem ab Aldredo Eboracensi Archiepiscopo in Regem est honorifice Consecratus.* We find in this Relation, that *Edward* the *Confessor* died on the *Eve* or *Vigil* of *Epiphanie*, and was buried the *next day*, being the Feast of *Epiphanie*, and that on the *same day Harold* (according to this Historian) was *chosen* and *Crowned* King by the Prime Men of all *England*. These *must* be such only as *were* about the *Court*, and no others, it must be also a *Faction* that *set* him up, or rather *assisted* him in *setting* up himself, for it can never be imagined that the *People* could have *notice* all *England* over to *come* to, or *send* their *Representatives* to such a *Solemnity*, and that the *Election* should be made, and the *King Crowned* in the *space* of twenty four hours; and therefore if it should be *granted*, that he were *chosen*, the *People* never did *choose* him, as this Author insinuates, nor so *much* as had *notice* of, or did know of his Election, so that they only received, and submitted to him as their King.

(8.) *f.* 52. *b.* n. 30, 40.

(9.) *f.* 210. *b.* n. 10.

* *Rex Heraldus Secundus Godwini filius hoc Regnum sibi temere usurpavit. Paris, in vit. Abb. f.* 40. n. 20, 30. King *Harold* the Second Son of *Godwin*, rashly usurped to himself this Kingdom.

(1.) *f.* 633. A. D. 1066.

(2.) *Col.* 193. n. 30.

The same words hath (2) *Simeon Dunelmensis* (who is an exact Transcriber of *Florence*) save that in *stead* of *primates*, he useth the word *principes*, which is of the same signification; and what he *meant* by *primates*, we are taught by the same Author in the year following. (3.) *Advenient Quadragesima Rex Gulielmus Normanniam repetiit ducens secum Dorobernensem Archiepiscopum Stigandum, Glastoniensem Abbatem Agelnothum, Clitonem Edgarum, Comites Eadwinum, & Morcarum Waltheofum Siwardi ducis filium, Nobilem Satrapam, Agelnothum Cantuariensem, & multos alios de Primatibus Anglia.* In *Lent* King *William* returned into *Normandy*, carrying with him *Stigand* Arch-Bishop of *Canterbury*, *Agelnoth* Abbat of *Glastonbury*, Prince *Eadgar*, the Earls *Edwin* and *Morcar*, *Waltheof* Son of Duke *Siward*,

(3.) *Flor. Wigorn. f.* 635. A. D. 1067.

Siward, *Agelnoth* the Noble Earl of *Kent*, and many others of the *Prime* Men of *England*; Amongſt *theſe*, and ſuch as *theſe Primates*, were no *Commons*, and therefore the *People* (in this Gentlemans *ſenſe*) did not Elect him, nor can it be any ways proved, (by any *Perſon* that would *make* this an *Elective Monarchy*) that he was ever *Elected* according to the *genuine*, and *juſt meaning* of that word, for which ſee the *Gloſſary*.

A

Nor is it leſs untrue that the Kingdom truly *devolved* upon *William* by *right* of *Blood*, if he had not been a *Baſtard*; for he had no other *pretence* of right that way, then by *Emme*, who was *Siſter* to *Richard* the Second Duke of *Normandy*, and *Aunt* to his Father *Robert*; and the *Relation* ſhe had to the Kingdom of *England* was only by *being Queen* to *King Ethelred*, and afterward to *Cnute*, and Mother to *Edward* the *Confeſſor*.

Antinorm. p. 5.

The Kingdom did not devolve upon *William* by Right of Blood.

B

Secondly, Certain it is, that the *Confeſſor named* him his *Succeſſor* ſome time before he died, and that (4.) he ſent over *Robert* Arch-Biſhop of *Canterbury* to *inform* him that he had done it; but we will paſs over this pretence, until we come to his 18, and 19 Pages, where it will be more aptly taken notice of.

Antinorm. p. 6. & 18.

(4.) *Ingulph. f. 511. b. l. 40.*

C

The third Particular, by which he would make it evident that *William laid* a far greater *ſtreſs* upon his *Claim* and *Title* then his *Sword*, is the *unkind Anſwer* that *Harold* returned to *William*, when he *ſent* to him to *demand* the Kingdom according to King *Edwards* Donation, and after what manner he raiſed an Army and won the *Battle* of *Haſtings*, in which *Harold* loſt both his *Life* and *Crown*. This is indeed a *Particular* much to the purpoſe, but let it be never ſo *ridiculous* and *abſurd*, yet there are two *Citations* in the Story, which *ſeem* to favour another *fancy* of this Authors about the *ancient* D *Rights* of the *Commons*, *&c.* and for the ſake of them he framed it.

Antinorm. p. 6.

Ibid. p. 8, 9.

The firſt is the Anſwer (5.) which *Harold* ſent Duke *William*, cited out of *Malmſbury*, *f.* 56. *a. v.* 20. when he was preſſed with the Oath he had made to him to aſſiſt him in obtaining the Kingdom after the Confeſſors death, in theſe words, *De regno preſumptuoſum fuiſſe Quod abſque generali Senatus & populi Conventu & Edicto, alienam illi hæreditatem Juraverit, proinde ſtultum ſacramentum frangendum.* E Concerning the Kingdom it was a preſumptuous thing in him to Swear to give Aſſiſtance to obtain another Mans Inheritance, without a general Convention and Edict of the Senate and People, and therefore a fooliſh Oath was to be broken.

(5.) *Antinorm. p. 6.*

This *laſt Clauſe* of the *Anſwer* he hath *omitted*, and for what reaſon, it will preſently appear; and truly he might have omitted the whole, as no ways proving the Commons to have had any ſhare at that time in the Government, if he had conſidered what hath been ſaid upon this very Paſſage in the Anſwer to Mr. *Petty*, *pag.* 16. or what F he himſelf hath ſaid in this Book, *pag.* 31. *partially* cited out of *Mat. Paris* writing of the Title of *William* the Conqueror; *Dicitur* (6.) *tamen quod beatus Edwardus, eo quod hærede caruit, Regnum legavit Willielmo Baſtardo Duci Normanicorum*, and cites no more, the next words being *Sed robore caruiſſe aſſeritur, quia fecit in lecto lethali,*

(6.) *f. 941. n. 50.*

&

& sine Baronagii sui assensu Communi. These last words of *Paris* do Expound and give us the meaning of those of *Malmsbury*, *absque generali Senatus & Populi Conventu & Edicto.* That is, without the common assent of the Clergy and Laity, or the Baronage of *England* of both Orders; those words of *Malmsbury*, and the other of *Paris* being spoken upon the same occasion.

Antinorm. p. 8. And for no other *end*, he tells us by what means *William* raised his *Army* with which he *subdued Harold* and the Nation: his Author is (7.) *Verstegan* in his *Restitution* of decayed Intelligence, who says the greater *part* of the *Nobility* and *People* were *unwilling* to assist *William* in this Enterprise. But at length the Duke whose Head was filled with Ambition, so much *prevailed* in *his Assemblies* of the *three Estates*, which *consisted* of the *Clergy*, *Nobility*, and *Commons*, that the *Nobility* promised to *serve* him, and the *Clergy* and *People* to aid him with Money, according to their several abilities; and such Offers as they made, were forthwith set down in Writing, by a *Secretary* there present. Here our Author stops, and had no mind to go on with *Verstegan*, who in the next words says, that *Odo* Bishop of *Bayeux* accorded to *furnish* him with *forty* Ships, the *Bishop* of *Meins* with *thirty*, and others according to their benevolent minds; then began he to desire *Ayd* of the *Princes* his *Neighbours*, as of the *Earls* of *Anjou*, *Poictou*, *Du Main*, *Ponthieu*, *Boulonge*, and *others*, promising to *give Land* unto every of them in *England*, if he *Conquered* it, according to their Qualities. And in the next (8.) Pages he further writes, that *Alan Fergant* Duke of *Britan*, the Lord of *Tovars*, the Son of the Lord *Bertram* of *Dignam*, *Raoul* of *Gayel*, and other Barons and Gentlemen, as well of *Normandy*, as other parts, came in great numbers of their own accord, some of them *required Wages* and good *furniture*, others demanded but their Passage, and to *take* in *recompence* of their *Service*, what *they could get* in *England*, one demanded a *Castle*, another a *Town*, and some contented themselves with the promise of having some good Lady or Gentlewoman in Marriage, and unto the Requests of every one of them the Duke accorded. This is full Evidence indeed, that *William* did not intend to Rule as a Conqueror; but let us see what the *three Estates* were with whom the Duke consulted about this Expedition, (for this Story was drawn in, meerly to countenance the fancy of the ancient Rights of the Commons, *&c.*) *Pictaviensis* who was in this Action with him, tells us, (9.) that very many of the *great Men* of *Normandy*, *dissuaded* the Duke *from* the *Enterprize*, as a thing too *difficult*, and above the *power* of *Normandy*; that there were then in that Country, besides *Bishops* and *Abbats*, Men most *Excellent* in *Council* and *Advice* of the Lay Order, *Robert Earl* of *Moreton* or *Mortaign*, *Robert Earl* of *Owe*, *Richard Earl* of *Eureux*, *Roger de Bello-Monte*, or *Beaumont*, *Roger de Monte Gomerico*, or *Montgomerie*, *William Fitz-Osbern*, and *Hugh* the *Vicount*. With these * *only* he *advised*, who readily *complied* with what he propounded, and by their *example*, incouraged all *Normandy*, to *provide Ships*, *Men*, *Arms*, and all things necessary for War, *Convenit etiam in auxilium Miles Copiosus Externus*, there came also into his Service great store of Foreign Soldiers, and he kept 50000 at his own Charge a Month, being Wind bound in the Port of *Dive*. I believe our Author, though he should use *Verstegans* Spectacles, could hardly find any Commons in this Consult.

7.) p. 173.

(8.) p. 174, 175.

(9.) f. 197. A. B.

* *Ibidem.*

A B C D E F

Our

Our Author ſays next, That the Duke was no ſooner landed with his Army, but by his *Proclamation*, he declared upon what occaſions he thus entred the Realm, and ſo preparing to give *Harold* Battle, he hereby ſeemed, as if he would have all the World to know, his Quarrel was more Perſonal, than National, and that though he was Victorious over *Harold*, he was no abſolute Conqueror. *Antinorm. p. 9. 10, 11.*

A This Argumentizer ſhould (to have made this Story more plauſible) have cited this Proclamation, or told us where to have found it, but if he had, it would not have ſignified much as to the Credibility of the Matter in Controverſie, for how many *Declarations*, *Proclamations*, *&c.* was there ſet forth in this Nation between 30 and 40, and 20 and 30 years ſince, by deſigning Men of ſeveral *Factions*, whoſe *Principles* are at this preſent, *forging*, *hammering*, and *dreſſing* up again, yet not one ſyllable of them made good; for the *Declarations* and *Pretences* of ſuch Men, and indeed all ſlie *Innovators*, are but *Coverings* and *Shadows* to *cheat* the People, nor do they ever *oblige* them, when they have opportunities to advance their Deſigns. Deſigning, obſerve not their own Declarations.

Again, If his *Quarrel* was only *Perſonal*, and that he intended only to *Conquer Harold*, and *not* the Kingdom, I deſire our *Logician* to tell us, when he was ſlain, and the Battle obtained againſt him, why he did not *disband* his Army and make good his Proclamation? Or, why he did on the contrary *build Caſtles* and *Cittadels* in *London*, and in very many other convenient places in *England*? Why he put *Norman* or *French Gariſons* and Governors into them? And, why he oftimes ſent for freſh Forces out of ſeveral Nations? Why he appointed *Odo Biſhop* of *Bayeux*, and *William Fitz-Oſborn*, both *great Normans*, his *Juſticiaries* or *Lieutenants* to Govern the Nation when he returned into *Normandy*, and carried with him all the *Prime Saxon Nobility*, within leſs then ſix Months after this very Battle. *Williams* Quarrel was not Perſonal againſt *Harold* only.

He proceeds, and from King *Williams Coronation Oath*, he will prove what he hath ſaid, to which he may eaſily receive an Anſwer from an *Engliſh* Proverb, That there is *never an Oath*, *but is either broken or kept*; and his proof from the Conquerors taking an Oath, ſignifies nothing, unleſs he can alſo *prove* that he *kept* it. More Conquerors than one, have uſed *fair pretences*, and made *ſmooth* promiſes, and dealt cunningly with the People, to carry on their Deſigns, and have at firſt *taken* plauſible Oaths, and *broken* them afterwards; nay *took* them, when they *intended* not to keep them, and knew they could not; and for *Oath-breaking*, *Harold* in his Anſwer to him when he demanded the Kingdom had given him an Example, That *Stultum Sacramentum eſt frangendum*, a fooliſh Oath is to be broken: and that is the reaſon this Author omitted theſe words in the Anſwer of *Harold* to *William* before mentioned, leſt it ſhould have defeated the force, and conſequences of the Dukes Oath, which he intended to make uſe of, in favour of his Aſſertion. The Conquerors Oath no Argument to prove he was not a Conqueror.

Many Specious *Oaths*, *Proteſtations*, *Vows*, and *Covenants* were contrived and taken by Crafty and Deſigning Men in the times

A Digression about the Scotch Covenant, &c. and the Rebellion raised thereupon.

before mentioned, and imposed upon the People, contrary to the *Oaths* of *Allegiance*, they had before taken, for no other *ends* than to *cheat* them into Rebellion, and make them the Authors of their own Slavery, which was discovered too late, and when they were under the power of an Army, and could not help themselves.

The same Parliament, (as they called themselves) the very same Lords and Commons, or at least the leading and prevalent Party, and *Oliver Cromwell* and many of his *Cabal* into the bargain, that lifted up their hands in the *presence* and *fear* (as they pretended) of Almighty God, and swore to and subscribed (when they wanted the assistance of the *Scots* in the year 1643.) the *Covenant* sent out of *Scotland*, which in the year 1646. when the Kings *Forces* were *beaten* out of the Field, and most of his Garisons reduced, and he himself forced to fly to the *Scots* Army, and they in a condition to keep in subjection the Nation, and drive the *Scots* out of it, they *interpreted* according to their own sense and advantage, quite contrary to the *sense* and *meaning* was *intended* by the *Contrivers* of it, and as the very same Men at first *accepted* and *received* it.

(1.) Propositions of the Parliament of *England* to be presented to the Assembly of *Scotland*, &c.

In the year 1643. when they were in a *low*, and the King in a *flourishing* condition and like to be successful, on the Tenth of *August both Houses* did desire the *Reverend Assembly* of *Scotland* to lay seriously to heart, the *state* and *condition* of their *Sister Church* and Kingdom, and not *only* by their *prayers* to assist in those Straights, but *also* by such *seasonable* and *effectual* Means, as to them should seem meet, to *further* and *expedite* the present *aid* and *assistance* demanded by both Houses; and their *Commissioners* were to make known unto them, that they were *designed* and *sent* by both Houses, to the *general Assembly* of the *Church* of *Scotland*, to *propound* to them, and *consult* with them, concerning *such things* as might *conduce* to their own *Reformation*, and their *so much desired Conjunction* with that Church.

Religion the true state of the Case between the King and both Houses.

And in their *Propositions* delivered to the *Assembly* on the Fifteenth of the same month and year, they *affirm* the *true state* of the Cause, between the *King* and *both Houses*, was *Religion*, in the *Reformation* whereof they were, and had been so *forward* and *zealous*, as that there was not *any thing expressed* unto them by their *Brethren* of *Scotland*, in their *former* or *latter Declarations*, which they had not *seriously taken* to heart, and *seriously endeavoured* to effect, that *so* the *two Kingdoms* might be brought into a *near Conjunction*, in *one form* of *Government*, *one Directory* of *Worship*, one *Catechism*, &c. and the *foundation laid*, of the *utter extirpation* of *Popery* and *Prelacy* out of *both* Kingdoms. The most *ready* and *effectual means* whereunto, they conceived to be, that *both Nations enter into a strict Union* and *League according* to the *desire* of the *two Houses* of Parliament.

The two Houses at *Westminster* desire the *Scotch* Church Government, &c.

The form of the Covenant agreed.

On the Seventeenth of the same Month the *form* of the *Covenant*, to be entred into *by both Nations* was agreed *unto* by the *Committees* of *Estates*, and of the *general Assembly* of *Scotland*, and the *Commissioners* of the Parliament of *England*, and then it was *sent* from *Scotland* into *England*, and *returned* again.

By

By *Directions* of both *Houſes*, the *Aſſembly* of *Divines* in *England* were great *Inſtruments* in *prevailing* with the *general Aſſembly* in *Scotland*, and wrote ſeveral *Canting*, *Enthuſiaſtick*, *Hipocritical Letters* to them, as that of *Aug.* 4. at *Weſtminſter*, 1643. *&c* who were called together by ſpecial Contrivance, and the Men *picked* out on purpoſe to *pleaſe* the *Kirk* and *Brethren* of *Scotland*.

The Aſſembly of Dirines Canting, Hypocritical Letters to the general Aſſembly of *Scotland*.

A The Propoſitions of *Treaty*, or *rather* of *Englands Yoak* and *Slavery* were agreed upon, and the *Scotch Covenant Received* as it was *ſent* from *Scotland*, and the *Articles* Signed the Twenty ninth of *November* 1643. at *Edinburgh*, in which it was agreed and concluded, That the *Covenant repreſented* to the *Convention* of *Eſtates* and *general Aſſembly* of *Scotland*, and *ſent* to *both Houſes* of the Parliament of *England* in the *ſame form* as it was returned, from the *two* Houſes of Parliament to their *Brethren* of *Scotland*, and *allowed* by the *Committee* of *Eſtates*, and *Commiſſioners* of the *general Aſſembly*, be *ſworn* and *ſubſcribed* by *both Kingdoms*, as a moſt *near Tie* and *Conjunction* between them, for their *mutual defence* againſt the *Papiſts* and *Prelatical Faction*, and their *Adherents* in both Kingdoms, and for *purſuance* of the *Ends* expreſſed in the ſaid Covenant.

The *Scotch* Covenant received as ſent from *Scotland*.

Article I.

B That an *Army* to this purpoſe ſhould be forthwith *levied*, conſiſting of 18000 Foot, 2000 Horſe, and 1000 Dragoons, *&c.* to have C 100000 *l.* advance, and to be *paid* 30000 *l.* monthly *out* of the *Eſtates* and *Revenues* of the *Papiſts*, *Prelats*, *Malignants*, and their *Adherents*, or otherwiſe; and if the *States* and *Kingdom* of *Scotland* ſhould *demand further ſatisfaction* of their *Brethren* of *England*, when the *Peace* of both Kingdoms ſhould be *ſetled*, *for their pains*, *hazard*, and *charges*, *&c.* they ſhould have *due Recompence* made unto them, *out of ſuch Lands* and *Eſtates* of the *Papiſts*, *Prelats*, *Malignants*, and their *Adherents*, as the *two Houſes* of Parliament of D *England* ſhould think fit.

Article II. and V. An Army of *Scots* to be raiſed in purſuance of the Ends of the Covenant.

To be paid out of Papiſts, Prelats, and Malignants Eſtates, &c.

That no *Ceſſation*, nor any *Pacification*, or *Agreement* of *Peace* whatſoever, ſhall be made, by *either* Kingdom, or the *Armies* of *either Kingdom*, without the *mutual Advice* and *Conſent* of both Kingdoms, or their Committees in that behalf appointed, who are to have full power for the ſame, in caſe the Houſes of Parliament in *England*, or the Parliament or Convention of Eſtates in *Scotland* ſhall not ſit.

Article VIII.

A Committee to have the power of Parliament when they ſit not.

E The Covenant it ſelf had this Title. *A Solemn League and Covenant for Reformation and Defence of Religion, the Honor and Happineſs of the King, and the Peace and Safety of the three Kingdoms of* England, Scotland, *and* Ireland

The Title of the Covenant.

The firſt, ſecond, and third Articles of the Covenant were, That they which did take it, ſhould *ſincerely*, *really*, and *conſtantly*, through the Grace of God, endeavour in their ſeveral places and callings, the *preſervation* of the *Reformed Religion in the Church of Scotland*, in F *Doctrine*, *Worſhip*, *Diſcipline*, and *Government*, the *Reformation* of *Religion* in the Kingdoms of *England* and *Ireland*, in *Doctrine*, *Worſhip*, *Diſcipline*, and *Government*, according to the *Word* of God, and the *Example* of the *beſt Reformed* Churches: and ſhould endeavour to bring the *Churches* of God in the three Kingdoms to the *neareſt Conjunction*, and *Uniformity* in *Religion*, *Confeſſion* of Faith, *Form* of *Church Government*, *Directory* for *Worſhip* and *Catechizing*.

The Contents of the Covenant.

Secondly, That they ſhould without *reſpect* of Perſons, endeavour the *Extirpation* of *Popery*, *Prelacy*, (that is *Church Government* by *Arch-Biſhops*, *Biſhops*, *Deans*, and *Chapters*, *Arch-Deacons*, &c.) *Superſtition*, *Hereſie*, *Schiſm*, *Profaneneſs*, and whatſoever ſhould be found to be *contrary* to ſound Doctrine and the *power* of Godlineſs.

Thirdly, That they ſhould with the ſame *ſincerity*, *reality*, and *conſtancy*, in their ſeveral *Vocations* endeavour, with their *Lives* and *Eſtates*, mutually to preſerve and defend the *Kings Majeſties Perſon* and *Authority*, **in the preſervation and defence of the true Religion and Liberties of the Kingdoms**, that the World might bear *Witneſs* with their *Conſciencies* of their *Loyalty*, and that they had no *thoughts* or *intentions* to *diminiſh* his Majeſties *juſt power* and *greatneſs*. A

And Article the Sixth, That they ſhould in their Places and Callings, in that *Common Cauſe* of *Religion*, *Liberty*, and *Peace* of the Kingdoms, *aſſiſt and defend all thoſe that did enter into that League and Covenant in the maintaining and purſuing thereof*, and ſhould *not* ſuffer themſelves *directly* or *indirectly* by *whatſoever Combination*, *Perſwaſion* or *Terrors*, to be *divided* or *drawn* from that *Bleſſed Union* and *Conjunction*, whether to make *defection* to the contrary part, or to give themſelves to a *deteſtable Indifferency* or *Neutrality* in that *Cauſe* which ſo much *concerned* the *Glory* of God, the good of the Kingdoms, and Honour of the King. B

This *Covenant* was agreed to by the two Houſes in *England* before the Twenty ninth of *Auguſt* next following, as appears by (2.) *Husbands Collections*. There was a *Declaration* of both Houſes for the Members that were in the Army to take the (3.) Covenant, another *Ordinance October* the Tenth, for divers Soldiers to take it at (4.) St. *Margarets Weſtminſter*, and another for the ſame purpoſe (5.) *December* the Twelfth; ſo forward and zealous were the two Houſes to *humour* and *pleaſe* the *Scots* at that time, that they cauſed the Covenant to be taken by their Army Officers, before the *Articles* of Treaty, to purſue the Ends of it were *Exchanged*, and Signed in *Scotland*. C D

(2.) *f.* 312.

(3.) Ibid. *f.* 327. *Sept.* 20.
(4.) Ibid. *f.* 359.
(5.) Ibid. *f.* 399.

An Ordinance of both Houſes, (6.) That all *Officers* of the *Law* ſhall take the Covenant or *loſe* their *Offices*, that no *Practiſing Lawyers*, *Serjeants*, *Barriſters*, *Attorneys*, *Sollicitors*, *Clerks*, &c. ſhall be *admitted* to *Plead* or *Practiſe*, unleſs they take the Covenant.

(6.) Ibid. *f.* 416. *Jan.* 30. 1643.
The Covenant injoined.

The (7.) *Declaration* of the Kingdoms of *England* and *Scotland* of the ſame date, *joined* in Arms for the *vindication* and *defence* of their *Religion*, *Liberties* and *Laws*, *againſt* the *Popiſh*, *Prelatical*, and *Malignant Party*, by the *Honourable Houſes* of the Parliament of *England*, and the *Honourable Convention* of *Eſtates*; In which they *ſay* this *Covenant* was *Gods Covenant*, that *he would never have put it into the hearts of both Nations to have Sworn and Subſcribed it, if he had been minded to deſtroy them*; and that the *War* in which both Nations were ſo deeply engaged, *was of God*. They are their own words. E

(7.) Ibid. *f.* 417.

They call it Gods Covenant.

They alſo *declare*, (8.) That *Neutrality* and *Indifferency* in the *time* of *danger* of *Religion*, was a *thing deteſtable to God*; that *ſuch* as have been *Neutraliſts* or *indifferent* in the times of Civil Diviſion and danger of the Common Wealth, *have* been in all *Nations ſeverely puniſhed*, as *pernicious* and *publick Enemies*, and therefore they gave *publick warning* to ſuch Perſons to reſt no longer upon their *Neutrality*, F

(8.) Ibid. *f.* 418.

Neutraliſts to be puniſhed as publick Enemies.

or

or to pleaſe themſelves with the *naughty* and *ſloathful pretext* of *indifferency*, but that they *addreſs* themſelves ſpeedily to *take* the *Covenant*, and join with all their power in the *defence* of that Cauſe againſt the *Common Enemy*, otherwiſe, they do *declare* them to be *publick Enemies* to the *Religion* and *Country*, and that they are to be *cenſured* and *puniſhed*, as *profeſſed Adverſaries* and *Malignants*. They are their own words.

A

And they did further *declare*, (9.) That the *whole Eſtates real* and *perſonal*, *moveable* and *inheritance* of *ſuch to be ſeized by Sequeſtrators*, *and the Rents to be by them received*, *and the Goods and Chattels ſold*; and there are many hundreds, if not thouſands yet living, that have known, and ſeen Miniſters in all Countries turned out of their Livings, and Laicks out of their Eſtates, and their *Goods ſeized* by *Sequeſtrators*, and appraiſed by Appraiſors of their own appointment, and ſold before their faces, for refuſing to take this *Covenant*, and being Rebels.

(9.) Ibid. *f.* 49. and *f.* 220. §. 617.

B

Febr. 2. An (1.) *Ordinance* of the *two Houſes enjoining* the taking of the *Solemn League* and *Covenant throughout* the *Kingdom* of *England* and *Wales*, with *Inſtructions* and an Order, that the Aſſembly of Divines do prepare an Exhortation for the better taking of it; *and that that Exhortation and* (2.) *Declaration of the Kingdoms of* England *and* Scotland, *joined in Arms for the vindication and defence of their Religion*, *Liberties*, *and Laws*, *againſt the Popiſh*, *Prelatical*, and *Malignant Party*, *and paſſed the Thirtieth of* January *laſt*, be publickly read, when the Covenant is read, and alſo that the *names* of ſuch as *refuſed* it, ſhould be *returned*, to the *Committees* in each County, and by them to the Houſe of Commons.

(1.) Ibid. *f.* 420. The Covenant enjoined to be taken by all.

(2.) Ibid. *f.* 421.

C

The King by his Proclamation dated at *Oxford*, *October* 9. the ſame year, prohibited the tendring and taking of this Covenant, reciting, that the Commons had ordered it to be Printed and Publiſhed on the Twenty firſt of *September* then laſt paſt, being in *truth*, as the *Proclamation* ſets forth, nothing elſe but a *Traiterous* and *Seditious Combination againſt him*, and *againſt the Eſtabliſhed Religion*, and *Laws* of the Kingdom, though it *ſeemed* to make *Specious Pretences* of *Piety* and *Religion*. We ſhall not here examine the *wickedneſs* and *impiety* of this (as they called it) *Holy Union* and *Covenant*, nor the *blaſphemous* Expreſſions which were conſequential to, and fixed upon it, of *Gods Covenant*, and *Gods War*, which was undertaken in purſuance of the Ends of it, but ſee how they *obſerved ſuch ends*, *meanings*, and *intentions*, as might fairly be deduced from the words and tenor of it.

The King by Proclamation prohibits the taking of the Covenant.

D

E

When the King was in the *Scots* Quarters in the Months of *October* and *November* 1646. there aroſe a *Diſpute* between the *two Houſes* and the *Scots Commiſſioners*, (3.) who had the *Intereſt* in *diſpoſing* the *Perſon* of the King, the *Scots* claimed a *joint Intereſt* with the *Engliſh*, and the Commons affirmed the Kingdom of *Scotland* had *no right* of *joint Intereſt*, in diſpoſing of the Perſon of the King in *England*, when indeed neither had right or intereſt in diſpoſing of his Perſon legally, for *right* to do that *implies* a *ſuperiority* and power of the *Diſpoſer*, over him that is to be *diſpoſed* of, either by juſt *Dominion*

A Diſpute between the two Houſes and *Scotch* Commiſſioners, *&c.*

(3.) The Anſwer of the Commons to the *Scots* Commiſſioners Papers of the 20th and 24th of *Octob.* Printed by order of the Commons *November* 28. 1646.

F

Dominion and *Soveraignty*, or *Direction* of the Law, and in this case there was neither of these to be pretended unto, for the *dominion* and *power* of the *Sword* gained by Rebellion, under which the King then was, is no just Dominion; besides this Reason, the *Judges* above fourscore years since, in the *Case* of the (4.) *Earl* of *Essex* his *Rebellion* and *Treason* against Queen *Elizabeth*, *delivered* their Opinions for matter of Law in two notable Points concerning the like actions and behaviour of Subjects towards their King, as was in this case.

(4.) A Declaration of the Practices and Treasons of *Robert* Earl of *Essex* and his Complices, together with his Trial Printed by the Queens Printers and Order, 1601. The Judges Opinion in two Points of the Earl of *Essex* his Treason against Queen *Elizabeth*.

The first, That in Case where a Subject attempts to put himself into such Strength as the King shall not be able to *resist* him, and to *force* and *compel* the King to *govern* otherwise, then according to *his own Royal Authority* and *Direction*, it is manifest Rebellion.

Secondly, That in every Rebellion, the *Law intendeth* as *a Consequent*, the *compassing the death and deprivation of the King*, as foreseeing, that the *Rebell* will never suffer that King to live or Reign, which might *punish* or take *revenge* of his *Treason* and Rebellion.

'Tis more then probable this *Dispute* was not in *earnest*, and but only a *blind* to what followed soon after; (5.) for before, or rather at the very time of it, they *agreed* with the two Houses upon *Terms* for their marching out of *England*, by which Agreement they were to have 200000 *l.* paid upon the *delivery* of *Newcastle*, *Berwicke*, and *Carlisle* to the Parliament, and *two hundred thousand* more *secured* to them upon the Publick Faith of the Kingdom. The first Payment was made at *Newcastle* according to Contract, and thereupon they delivered the King to the *Earls* of *Pembroke* and *Denbigh*, the *Lord Montague*, Sir *James Harrington*, Sir *John Holland*, Sir *Walter Earl*, Sir *John Cook*, Mr. *Crew*, and *Major General Brown*, who were *Commissioners* appointed by the Parliament to receive him. The *Scots* march out of *Newcastle*, *Febr.* 6. and the King two days after with these Commissioners set forward toward his House at *Holdenby* in *Northamptonshire*, where he arrived on the Sixteenth of that Month, and was (6.) kept *close Prisoner several Months*, *his Servants were denied access to him*, none but the Commissioners or who they pleased were permitted to converse with him, nor were any Letters to be given to, or received from him, and he was in that distress and affliction *denied* the *use* and *assistance of his own Chaplains*, Men of Exemplary Piety and sound in the Protestant Religion.

(5.) *Bakers* Chron. *f.* 568. *col.* 2.

The *Scots* sell their King.

The Commissioners names that received the King.

(6.) His Message to both Houses from *Holdenby*, *May* 12. 1647.

They were the *same two Houses*, and the *same Scots* that did these things, which *entred* into a *Solemn League* and *Covenant*, for *Reformation* of Religion, the *Honor* and *Happiness* of the King, *&c.* that sware they had no thoughts or intentions to diminish his Majesties just Power and Greatness.

Presbyterian Practices.

They were the *same two Houses*, or at least the leading and prevailing Party in them, and their *same Neutral* Followers, that while he was their *Prisoner*, always sent *unreasonable Propositions* to him, to which he could not *consent*, without *disclaiming* his *Reason*, *violating* his *Conscience*, and *destroying* the *Religion* and *Government* then by Law Established.

They were the *same* two Houses as before, that on the Twenty fourth of *December* 1647. sent *four Bills* to the King to the Isle of *Wight* to be *passed*, as *previous* to a Treaty, by which he was to unking himself, allow and confirm all they had done, and give them all the power of the Kingdom, together with *three* and *twenty* Propositions,

tions, (whereof the Fourteenth was that an *Act* might be *passed* for the *setling* of the *Presbyterian Government* and *Directory*) which upon the passing of those Bills were to be treated of.

They were the *same Presbyterian Covenanting* two Houses, that on the Fifteenth of *January* next following, *reciting* they had received an *absolute Negative* to the *four Bills*, (which as they affirmed contained only matter of safety and security to the Parliament and Kingdom) *passed* the following Votes.

Presbyterian Votes for no more Addresses to the King.

Resolved upon the Question, That the Lords and Commons do declare, that they will make no further Addresses or Application to the King.

Resolved upon the Question, by the Lords and Commons Assembled in Parliament, That no Application or Address be made to the King by any Person whatsoever, without the leave of both Houses.

Resolved upon the Question, by the Lords and Commons Assembled in Parliament, That the Person or Persons that shall make breach of this Order, shall incur the Penalties of High Treason.

Resolved upon the Question, That the Lords and Commons do declare, that they will receive no more any Message from the King, and do injoin that no Person whatsoever, do presume to receive, or bring any Message from the King to both, or either Houses of Parliament, or to any other Persons.

The Grounds of the Bloody St. *Albans* Remonstrance.

There were several Papers dated at St. *Albans* of this nature.

These *Votes* were the **Grounds** and **incouragement** of that *Long, Bloody*, and *Execrable Remonstrance* of the *Lord Fairfax General* of the *Parliaments* Forces, and of the *General Officers* held at St. *Albans* the Sixteenth of *November* 1648. presented to the *Commons* Assembled in Parliament the Twentieth of that Month, dated at St. *Albans* the Eighteenth, and *Signed John Rushworth*, as they do confess in the 52d, 53d, and 60th *pages* of the same; in which they *propound, move* for, and *press openly* the *Murther* of the *King*, and the *Alteration* of the *Government*.

The *Scotch* Commissioners Answer their Propositions and four Bills. (7.) *p.* 25, 26, 27.

They propound a Personal Treaty. * *Page* 5.

And the Establishment of the Covenant.

The *Commissioners* of the *Kingdom* of *Scotland* put forth an *Answer* to both Houses of Parliament upon these *new Propositions* of *Peace* and *four Bills*, before they were sent to his Majesty, and at the (7.) conclusion of it they *set* down their *Desires*, the chief of which were.

First, That in stead of sending Propositions, there might be a *Personal Treaty* with his Majesty at *London*, and that he to that end might be * *invited* to *come* thither with *Honour, freedom* and *safety*.

Secondly, That the *Honourable Houses*, according to the *Solemn Vows, Treaties, Declarations* and *Engagements* between the *two Kingdoms*, would after so very long delay, *Establish* the *Solemn League* and *Covenant*, and that his Majesty be desired to *give* his *Royal Assent*, for *confirming* the *same* by Act of Parliament in both Kingdoms.

Thirdly, That the setling *Reformation* of, and *Uniformity* in *Religion* according to the *Covenant* in *England* and *Ireland*, be likewise desired in these new Propositions; and in *particular*, that the *Confession* of *Faith, Directory* of *Worship, Form* of *Church Government*, and *Catechizing*, *agreed* upon by the *Assembly* of *Divines*, and *presented* to the Houses, be Established.

Fourthly, That by Act of Parliament *effectual Course* be taken, for *suppressing Blasphemy, Heresie, Schism*, &c.

Fifthly,

And Disbanding of the Army.

Fifthly, That the *Armies* in both Kingdoms, which were *raised* for *Preservation* and *Reformation* of *Religion*, and for *defence* of the Kings Person, and safety of the Kingdoms, be not *kept* up to *hinder Reformation* of *Religion*, and the *King from* his *Government*, and to be a *burthen* to the Subjects since the War was ended, but that they might have due satisfaction of their Arrears, and be Disbanded.

And restoring the King to his Power and Government.

Sixthly, That the *King* be *restored* to his *Rights* or *Revenues*, and particularly, that the *Crown* be not *excluded* from the *power* of *making Laws*, which is as *Essential* to *Kings*, as to *govern* by *Laws*, and sway the Scepter; nor from the *power* of the *Militia*, without which they can neither *protect* their Subjects, *oppose their* and the *Kingdoms* Enemies, nor *keep friendship* with their Allies. A

The Lords and Commons publish a Declaration against this Answer.

Concerning this Answer, and these Desires, the *Lords* and *Commons* Assembled in Parliament set forth a Declaration, and order it to be Printed and Published, *March* 4. 1647.

(8.) *Page* 20. The Heads of that Declaration.

Wherein they *declare*, (8.) they *cannot admit* of a *Personal Treaty*, unless they resolved to be *treated* out of *all* they had *fought* for, and to be *treated* out of *what* they *could* not be *fought* out of; That the *Scots* (9.) *Commissioners mistake* their aim, if they think the *Kings presence* with the *Parliament*, necessarily *implieth* his *presence* at *London*, which the King and they so much desired, that he might have *opportunity* to *cajole* the *Citizens*. They also *mistake* the Parliaments (1.) *Declarations*, if they *thought* it was the Kings *local absence* from his Parliament, which they *declared* to be the *chief cause* of all the *War*, *Mischief*, and *Calamities* of the Kingdom, any *otherwise* than it was in *order* to his *distance* in *Affections*, and his *oppositions* in their *Councils*, and endeavours to destroy them; and yet in their *Declaration* of *Sept.* 11. 1642. they say, that if his Majesty would then be pleased *to come back* to his Parliament without his *Forces*, that they should be ready to *secure* his *Royal Person*, *Crown* and *Dignity*, with their *Lives* and *Fortunes*, his *presence* in that *great Council* being the *only means* of *any Treaty* betwixt his Majesty and them *with hope* of success: this they own here *pag.* 26. and in their Answer to the *Scots* Papers about their *interest* in *disposing* of the *Person* of the King, *pag.* 66. but say nothing of moment to it in either place, this is certainly a Local, Personal Presence here meant; That they *were* to have (2.) *satisfaction* and *security*, *safety* and *security granted* by the King, (by which they *mean* the *four Bills* passed) *before* they *treated* or *sent Propositions* after the War; That the *King* (3.) *could grant no more than what they had*, (meaning his *Royalties*, *Power*, and *Government*) which they had usurped by Violence and the Sword; That it would be *base* and *dishonourable* for *them* in that (4.) *Condition* to *treat under* the *Gallows*, to *treat* as *Traytors*, their *Cause* being not *justified*, nor the *Declarations* against them as *Rebells* recalled. B C D E F

(1.) *Page* 21.

(2.) *Pag.* 27, 28, 70.

(3.) *Page* 8.

(4.) *Page* 86.

(5.) *P.* 29, 30.

(6.) *Page* 34.

(7.) *Page* 37.

(8.) *Page* 43.

(9.) From *p.* 50. to 55.

Concerning *Religion*, (5.) they *declare* they could never *find* that *Church Government* in a *Presbyterian way*, was *necessary* by any *Divine Right*; That the *Scots* (6.) *framed* and *devised* the *Covenant*; They (7.) *confess* (*speaking* of the *Solemn League* and *Covenant*, and the things contained in it) that the *state* of many *Questions*, at that time, which *went under* the *notion* of *Religion*, was indeed a *contest* only of *Power* and *Dominion*, as it had been of *old* between the *Clergy* and *King*, or *Temporal Estate*; Punishments and Censures Ecclesiastical, or the *Scots Discipline* (8.) they call *Popish* and *Prelatical* Principles, and *Apologize* for *Sectaries* and *Heretick*s, (9.) *Anabaptists*, *Antinomians*, *Familists*, *Shakers*, &c.

Con-

Concerning the Militia and Disbanding the Army they (1.) declare; *That the Militia was the Foundation of their Security, and the Principal immediate Ground of the Quarrel, in order to the Preservation of Religion, and the just Rights and Liberties of the People.* That (2.) *Laws signifie nothing without the Militia by Sea and Land; The Parliament of no Authority, without the Power of the Sword, when by the Power of the Sword, it shall be opposed, affronted, resisted, their Summons scorned, their Messengers kick'd about the Streets, and their Votes and Judgments derided. That Freedom but imaginary Freedom, that hath no other than Paper or Parchment Walls at the best to defend it. That the* (3.) *Army or Forces were not to be Disbanded, but when the Two Houses should think it fit and safe, nor so long as it should be thought necessary to keep them up, for the maintaining of priviledge of Parliament, the Liberty of the Subject, and Protestant Religion, and for the Parliaments consulting freely and acting securely.* (1.) p. 68. (2.) p. 70, 71. (3.) p. 73, 82.

They term the common People which flocked about the Parliament Doors, and Avenues of the Houses in *July* Preceding, a (4) Tumultuous Rabble. The Traiterous Engagers and Leviers of a new War, when they petitioned and cryed out for the King to come to *London*, and for a Personal Treaty; when as such a sort of People, or it may be of a meaner and worse condition in the years 1640 and 1641. were countenanced, incouraged and applauded a long time together by these very Houses, when they cryed out against Bishops, and for Justice, or whatever else they would have them. (5.) They were owned as Friends and well-affected, and their Courage, Zeal, and Industry commended: nor could any Declaration from the Bishops, concerning their Insolencies and Assaults, nor from other Lords or Gentlemen of Honor, nor from the King himself take place, for the due Suppression of those Tumults, and securing their Freedom in Parliament, or Persons in the Streets. (4.) p. 61, 73, 74. (5.) Εἰκὼν Βασιλ. c. 4.

They further declare, That (6.) by Defence of the Kings Person and Authority, in the Preservation of the True Religion and Liberties of the Kingdoms, (that is, what they should think or declare to be the True Religion, and the Liberties of the Kingdoms) they meant, that such Religion and Liberties were first to be had and obtained, before any consideration was to be had of the Kings Person and Authority, and no otherwise. (6.) p. 73.

This long Digression hath been made, to demonstrate, that Designing mens Consciences do vary and change according to the Difference of Times, Emergencies of Things, and the Conditions of Affairs; and that the Heads especially and chief of them, before they enter upon the Method they propound to themselves, do know they must, and do intend, *To promise falsely, protest falsely, vow falsely, Covenant falsely, ingage falsely, associate wickedly and falsely, swear falsely, pretend to Religion and Piety falsely, Petition falsely, declare falsely, remonstrate falsely, draw up and publish the State of the Nation falsely, calumniate falsely, asperse the Government, Governors, and Ministers falsely.* That they may Cheat the People, raise Discontents, affright and bring them wholly under their Direction and Guidance, and make them Authors of their own Slavery, while they Usurp an Arbitrary boundless Power and Dominion over them, by monstrous

The reason of the Digression

monstrous *Hypocrisie* and *Imposture*, and maintain such *Usurpation* by that *very force* and Armes, with which the *Deluded* and *Abused* People at first *furnished* them; and when they have obtained force enough to defend themselves, they will then expound and interpret their own *Declarations*, and put what *meaning* upon them they please, though not reasonably warranted by the *words* themselves.

But to return to the *Oath* of the *Conquerer*, neither *Pictavienſis*, *Eadmerus*, *Ordericus Vitalis*, *Hen.* of *Huntingdon*, or *Mat. Paris* do write of any taken by him: *Florence* of *Worceſter* is the first that mentions it, and *Simeon* of *Durham*, and *Roger Hoveden* transcribed it from him. The words of the Oath were, (7.) *Se Velle Sanctas Dei Eccleſias ac Rectores earum Defendere, necnon & cunctum populum, ſibi ſubjectum juſte ac Regali providentia Regere, rectam legem ſtatuere & tenere, Rapinas injuſtaque Judicia, penitus interdicere.* That is, that he would defend the *Holy Churches* of God, and the *Governors* of them, alſo that he would Govern all the People ſubject to him, juſtly, and with a Royal Providence, that he would make and keep right Law, and totally prohibit Rapines and unjuſt Judgments.

(7.) Flor. Wigorn. fol. 635. Et Jus Angl. ab antiq. p. 46. The Conqueror's Oath.

This *Oath* was conceived in general words, and ſuch as were of a great *Latitude*, and he might by the Power and help of his Sword, expound or interpret them in almoſt what ſenſe he pleaſed, and make them far more eaſily correſpond with his Actions, than if it had conſiſted of many ſtrict Particulars. Our Author hath added one * extraordinary neceſſary Article at that time, as he ſays, to this Oath, which is, *Quod æquo Jure, Anglos & Francos Tractaret.* He hath it out of *Malmsbury*, who relates the *Tranſaction* thus; (8.) *Exhortatus Aldredus Conſecrationem egit, exacto prius coram omni populo Jurejurando, quod ſe modeſte erga ſubjectos ageret, & æquo Jure Anglos, quo Francos tractaret:* *Aldred* being exhorted to it, Crowned *William*, firſt having exacted an *Oath* from him, that he would modeſtly or moderately behave himſelf towards his Subjects, and that he would treat or rule the *Engliſh* and *French* with the ſame equal Law; which notwithſtanding he behaved himſelf ſo ſeverely and rigorouſly toward the *Engliſh*, as the old Archbiſhop *Aldred* (9.) curſed him and his Progeny for it, and preſently after died with grief. This laſt part of the Story is left out, he well knowing it would have deſtroyed his whole *Argument* from the *Coronation Oath* of King *William*, as being a pregnant Teſtimony that he never kept it.

* *Arg. Antiorm.* p. 13. & *Jus Angl. ut ſupra.*

(8.) Malmsb. fol. 154. b. n. 10

(9.) Ibidem. Archbiſhop *Aldred* curſed King *William.*

Laſtly he pretends to *Evidence* demonſtrably, that it was not ſo much *Conqueſt* that King *William* the Firſt relyed upon, when he was ſettled in this Imperial Throne, as his *Claim* to the *Crown* of *England*, *Jure Hæreditario*, by Right of Inheritance, from ſome of his own *Charters*, and ſome of his Son *William*'s, and others of *Henry* the Firſt.

Arg. Antiorm. p. 18.

This Hereditary Right was only the Donation of *Edward* the Confeſſor, as Mr. (1.) *Selden* explains it, and there admits and approves it as a lawful Title, from whom our Author had this Argument,

(1.) Review of Tithes, p. 482, 483.

ment, and almost all others; and the Conqueror was no more than Epistolary or Testamentary Heir to that King, as appears by what hath been said before concerning his nearness by Blood to the Confessor, and Queen *Emme*; and is farther evidenced from the Charters which he cites, and some others; as in his fourth instance; *Regnum mihi cum providentia Dei destinatum, & Beneficio cognati mei Gloriosi Regis* Edwardi *Concessum*: The Kingdom designed to him by
A the Providence of God, and granted to him by the Beneficence of his Glorious Kinsman King *Edward*. In a Charter of Priviledges to *Bury* Abbey, the Conqueror says he was Heir to the Kingdom by *Kinred* and the Gift of King *Edward*, (3.) *Illustris* Edwardi, *cujus miseratione Domini, genere & Dono in Regno sumus hæredes*; in his eighth instance it is yet more clear, where he hath mistaken *Henry* the First, for King *Stephen*, whose Charter of Priviledges to *Westminster* Abbey begins thus; (4.) Stephanus *Dei Gratia Rex Anglo-*
B *rum*, &c. *Sciatis me pro Redemtione animæ meæ, & Patris & Matris meæ, necnon & Beatæ Memoriæ Regis* Edwardi *cognati mei*; *Qui avum meum, liberosque illius in Regnum suum adoptivos hæredes instituerat*, &c. from whence it is plain, what his Hereditary Right was, but whether he relyed more upon that, than his Sword and Conquest, is left to every indifferent Reader to judge upon what hath been said, and shall be further delivered in the ensuing answer.

The Conqueror had only an Epistolary Right.

(2.) p. 19.

(3.) Monast. Angl. vol. 1. fol. 289. n. 50

(4.) *Ex Autograph.*

C In the close of his Answer to this first Question, he saith, (5.) that he hath with a Three-fold Cord, not easily to be snapt asunder, bound hard his Assertion, that *William* came to the Crown by the * Election and consent of the Clergy and People, and that *Fœdus Pepigit*, he made a Solemn Covenant with the *English*, to observe and keep those Laws which were *bonæ & approbatæ & antiquæ leges Regni*, the good approved ancient Laws of the Kingdom. Whether he hath twisted such a Cable as he speaks of, is also left to the
D Readers Judgment.

(5.) *Antinorm.* p. 22.

* *Jus Angl. ab Antiq.* p. 56, 57, 58. He kept this as well as the Parliament kept the Solemn League and Covenant

But what work doth this small *Scrap-monger* make with these two words, * **Fœdus Pepigit**, without mentioning the Author from whence he had them, which I shall cite for him, with the Sentence preceding and following, and give him leave to make his advantage of them, (6.) *Comes* Gulielmus, Suthregiam, Middlesaxoniam, Hartfordensem *provinciam devastabat, & villas cremare,*
E *hominesque interficere, non cessabat, donec ad villam Beorcham veniret*; *Ubi* Adeldredus *Archiepiscopus*, Wolstanus Wigorniensis *Episcopus*, *Clito* Edgarus, *Comites* Edwinus & Morcarus, & *de* Lundonia *quique Nobiles, cum multis aliis ad eum venerunt, & datis obsidibus, illi Deditionem fecerunt, fidelitatemque juraverunt, cum quibus & ipse* **Fœdus Pepigit**, *& nihilominus exercitui suo, villas Cremare, & Rapinas agere permisit. Appropinquante igitur, Dominicæ Nativitatis Dominicæ Festivitate, cum omni exercitu*, Lundoniam *ut ibi in Re-*
F *gem sublimaretur, adiit.* Earl *William* wasted *Surrey*, *Middlesex* and *Hartfordshire*, burnt Towns and killed Men, until he came to the Town of *Beorcham* where *Aldred* the Archbishop, *Wulstan* Bishop of *Worcester*, Prince *Edgar*, the Earls *Edwin* and *Morcar*, and the Nobility from *London*, with many others, came unto him, and having given Hostages, submitted and sware Fealty to him, with whom he entred into Conditions, and granted them terms of

* *Ibid. & Jus Angl. ab antiq.* p. 45, 58. *in margine.*

(6.) *Flor. Wigorn.* fol. 634, 635. The same words in *Simeon Dunelm.* col. 195. n. 30. Also the same words in *Hoveden*, fol. 258. a. lin. 1. &c.

William's behaviour before he was Crowned, which was done by assistance of his Army.

Peace, and never the leſs he permitted his Army to burn Towns, and commit Rapine; and *Chriſtmaſs* approaching, he went to *London* with all his Army, that he might be made King. Here is no Election, no conſent of the People, no Bargain ſtrucken, or Covenant made, to obſerve and keep the Laws, which were *bonæ & approbatæ leges Regni*, as this Writer falſely inſinuates. But on the contrary here is the Submiſſion of the People, the Behaviour of a Conqueror, Hoſtages taken, Towns burnt, Rapine committed, and he himſelf made King by the influence of an Army. Thus much for his pitiful Aſſertions and Arguments, in Anſwer to his firſt Queſtion. A

These words *bonæ, antiquæ & approbatæ leges*, belong to the Story of Abbat *Frederick* of St. *Albans*, of which in the ſecond Queſtion.

The Second Queſtion is.

Whether the firſt *William* did aboliſh all the *Engliſh* Laws, and changed the whole Frame and Conſtitution of the Government. B

Antiquorman. p. 23.

No man that I know, ever made the Affirmative part of this Queſtion his Aſſertion; he hath here again miſtaken the State of it; for it ought to have been put, whether in his Reign and Government he uſed only the *Engliſh* or *Saxon* Laws, and brought in no other, by which he governed the Nation. C

The State of the ſecond Queſtion miſtaken.

Gervaſe of *Tilbury* is full and clear in this Point, who from *Henry* Biſhop of *Wincheſter*, Brother to King *Stephen*, and Grandchild to the Conqueror, a great Officer in the Exchequer, tells us what Law he eſtabliſhed, and by what Law he ruled, (7.) *Cum Inſignis ſubactor* Angliæ *Rex* Gulielmus, *ulteriores Inſulæ fines ſuo ſubjugaſſet imperio, & Rebellium mentes, terribilibus perdomuiſſet exemplis, ne libera de cætero daretur erroris facultas, decrevit ſubjectum ſibi populum, Juri ſcripto, legibuſque ſubjicere. Propoſitis igitur legibus* Anglicanis, *ſecundum tripartitam earum diſtinctionem, hoc eſt* **Merchenlage, Denelage, & Weſt-Saxenlage**, *quaſdam reprobavit, quaſdam autem approbans,* **Tranſmarinas Neuſtriæ**, i. e. Normaniæ **Leges, quæ ad Regni pacem tuendam efficaciſſima videbantur, adjecit.** When the Famous Subduer of *England* King *William*, had ſubjected to his Empire the utmoſt parts of the Iſland, and by terrible examples had brought to perfect obedience the minds of Rebels. That they might not have liberty of falling into the ſame Errors for the future, he reſolved to govern the People ſubjected to him by written Right and Law. Therefore the *Engliſh* Laws being propounded according to their Threefold Diſtinction, that is, the *Mercian-Law*, *Dane-Law*, and *Weſt-Saxon-Law*, he rejected ſome, and approved others, and added ſuch *Tranſmarine Norman Laws, as ſeemed moſt efficacious, for to defend the Peace of the Kingdom*; and as to Matter of Fact, the Reader is referred to the Preface of the *Norman* Hiſtory, where he will find it fully proved, that the Law uſed in this Nation after the Conqueſt, eſpecially as to the Method and Practice of it, was the *Norman* Law, and ſo remains to this day in very many things. D E F

(7.) Lib. 1. c. 29

What Law *William* eſtabliſhed.

But

But that no Cavils may remain unſatisfied, I ſhall give a particular anſwer to every thing that is ſaid in this Treatiſe, and in all others I have met with.

A He begins to (8.) prove the Negative of this Queſtion, by the Authority of Sir *Edward Coke*, (9.) who ſays, the Grounds of our Common Laws at this day, are beyond the Memory or Regiſter of any beginning, and the ſame which the *Norman* Conqueror found within this Realm. The contrary to this Aſſertion is made Good againſt him in the Preface to the *Norman* Hiſtory before cited, whither I refer the Reader. But how will he reconcile Sir *Edward* to Sir *Edward*, when he ſays in the ſame Preface, that Original Writs are the Foundations whereupon the Law dependeth; and I think it will eaſily be granted, that theſe are no where B to be found before the Conqueſt, and that they are neither beyond the Regiſter of beginning, nor that the Conqueror found them here. Again in his Preface to his eighth Report, he ſays that the whole Frame of the antient Common Laws of this Realm do in effect appear in the Mirror of Juſtices, and that therein may perfectly and truly be diſcerned the whole Body of the Common Laws of *England*. Can a Frame or Body be without Grounds or Foundation, and the Frame, Method and Form of moſt of the C Authentick (1.) Laws in that Book was eſtabliſh'd ſince the Conqueſt, and can any one think it was done without Ground or Foundation?

(8.) *Antinorman.* p. 23.
(9.) Preface to his eighth Report.
The Grounds and Foundation of the Common-Law
(1.) See Preface to the *Norman* Hiſtory.

The next * Proof he brings to make good the Negative of this ſecond Queſtion, is the Title of the Laws attributed to the Conqueror in *Selden*'s Notes upon *Eadmer*, fol. 173. *Ces ſont les leis* D *& les Cuſtumes que li Reis* William *grantut á tut le peuple de* Engleterre, *apres le Conqueſt de la terre; Ice les meiſnes que le Reis* Edward *ſon coſin tint de vant li.* Theſe are the Laws and Cuſtoms which King *William* granted to all the People of *England* after the Conqueſt of the Land. The very ſame which King *Edward* his Couſin held before him.

* *Antinorman.* p. 24.
The Title of King *Williams* Laws.

This is the Title to the ſame Laws for which he cites *Ingulphus* Abbot of *Croyland*, page 29. and thoſe he brought with him E from *London* to that (2.) Monaſtery; the Laws of moſt Juſt King *Edward*, which his Lord the Renowned King *William* would have perpetual and Authentick, and by Proclamation had commanded they ſhould be kept, under moſt grievous pains, through the whole Kingdom, and had recommended them to his Juſtices, in the ſame Language in which they were publiſhed, leſt it might happen, through ignorance, any one might go contrary to, or F by a raſh Act offend his Royal Majeſty, and ſo incur the moſt Rigid Cenſures contained in them. The words of *Ingulph* are theſe, *Attuli eadem vice mecum* Londoniis *in meum Monaſterium Leges æquiſſimi Regis* Edwardi, *quas Dominus meus inclytus Rex* Willielmus *Authenticas eſſe & perpetuas per totum Regnum* Angliæ, *inviolabiliter tenendas ſub panis Graviſſimis proclamarat & ſuis Juſtitiariis commendarat, eodem Idiomate quo Editæ ſunt; ne*

(2.) *Seld. Not. ad Eadm.* fol. 172. n. 40, 50. Ingulph. Hiſtor. b Croyland. fol. 519 b. n. 30, 40.
Ingulph Abbot of *Croyland*, brought King *Williams* Laws from *London*.

p. r

per Ignorantiam contingat nos vel nostros aliquando in nostrum grave periculum, contraire & offendere ausu temerario Regiam Majestatem, ac in ejus **Censuras Rigidissimas**, *improvidum pedem ferre contentas sæpius in iisdem.*

These Laws *Ingulph* brought from *London* in the Twentieth, or last year but one of the Conqueror, for at the same time he brought with him a Copy of a Survey of all the Lands belonging to his Monastery, out of *(3.) Doomesday* Roll or Book, which was not finished until that year, as appears at the end of the Description of *Essex*, *Norfolk* and *Suffolk*, *(4.) Anno* 1086. *ab incarnatione Domini, vicesimo vero Regni* Willielmi, *facta est ista Descriptio, non tantum per hos tres Comitatus, sed etiam per alios*; and this in a hand as antient as that of the Survey it self is written in; by this it appears, these were only the allowed Laws of King *Edward*, which were permitted to be used, and had the Authority of Law, 'tis not probable he published any other afterward, for within a very small time, he went into *Normandy*, where he died. They were in number Fifty, most Penal Laws, as appears by *Ingulph*, and the Laws themselves, from which he received much profit and advantage from the many and great Mulcts imposed upon the People, for the various Transgressions of them. And the others of small moment, and no ways inconsistent with King *William*'s Establishment, most of which were taken out of the *Saxon*, some out of the *Danish* and Feudal Law.

(3.) Ingulph. Hist. fol. 516. b. n. 10. 20.
(4.) Little Doomesday-Book, f. 450 a.
Most of them were Penal Laws.

But besides these received from King *Edward*, and published with his Approbation, and by his Command, there were others attributed to King *William*, which Mr. *Selden* subjoyns to the Laws taken from the *Crowland* Copy: *(5.) Atqui Complures aliæ, vetustis Schedis* Gulielmo *Regi tributæ, præter eas* Edwardo *Regi accepto latas, reperiuntur, quarum hasce subjungere visum est*, &c. The very same Laws with small variation, are published by Sir *Roger Twisden*, as he *(6.)* found them in the Red Book in the Exchequer, which he thought the most Authentick Exemplar, and placeth them likewise immediately after the *Crowland* Copy, published by himself.

(5.) Not. ad Eadm. fol. 189. n. 30.
(6.) Lamb. Archion. fol. 170.

Amongst these last mentioned Laws, there are some, which at that time without doubt were thought very efficacious for the Preservation of the Peace, and the Establishment and Government of King *William*, which *Gervase Tilbury* says, were added to the *Saxon* Laws. The first is *(7.)* Law the 52th. Tit. *De fide & obsequio erga Regem, Statuimus etiam ut omnes liberi homines fœdere & Sacramento affirment quod intra & extra Regnum* Angliæ, *(quod olim vocabatur Regnum* Britanniæ*)* Willielmo *Regi Domino suo fideles esse volunt, Terras & honores illius omni fidelitate servare cum eo & contrare inimicos & alienigenas defendere.* We do appoint and ordain that all Free-men may by League and Oath affirm or make good, that within and without the whole Kingdom of *England*, (which was antiently called the Kingdom of *Britain*) they will be faithful to their Lord *William*, and by their Fealty will preserve his Lands and Honors every where with him, or in his Possession, and defend them against his Enemies and Strangers.

The additional Laws to King *Edwards* for the establishment of King *William*'s Government.
(7.) Lambard. Arch. fol. 170. Seld. Not. in Eadm. fol. 190. n. 10.

The (8.) Second Law is the 55th. (8.) Ibidem.

De Clientelari, seu Feudorum Jure, & Ingenuorum immunitate.

A *Volumus etiam ac firmiter* **præcipimus**, *&* **Concedimus** *ut omnes* **liberi** *homines totius Monarchiæ Regni nostri prædicti, habeant & teneant terras suas, & possessiones suas,* **bene** *&* *in* **pace**, **libere** *ab omni* **exactione** *injusta, & ab omni* **Tallagio**, *ita quod* **nihil** *ab eis exigatur, vel capiatur, nisi* **servitium**, *suum* **liberum**, *quod de Jure nobis facere debent, & facere tenentur; & prout Statutum est eis, &* B *illis à nobis* **Datum**, *&* **Concessum** *jure hæreditario imperpetuum per* **Commune Concilium** *totius Regni nostri.*

Of the Feudal Law, and immunity of Free-men.

The Feudal Law of King *William.*

We Will and firmly Command, and we Grant, that all Free-men of the whole Monarchy of our Kingdom aforesaid, have and hold their Lands and Possessions, well and in Peace, free from all unjust Exaction and Tallage, so that nothing be exacted or taken C from them, but their Free-Service, which of Right they are bound and ought to perform to us, as it was appointed to them, and given by us to them, and Granted in Hereditary Right for ever, by the Common-Council of our Realm.

The (9.) Third Law is the 56th. (9.) Ibid. & in Lamb. fol. 171.

D *De nocturnis Custodiis.*

Statuimus etiam & firmiter præcipimus, ut omnes Civitates & Burgi, & Castella, & Hundredi & Wapentachia, totius Regni nostri prædicti, singulis noctibus, vigilentur & Custodiantur in gyrum pro maleficiis, & inimicis, prout Vicecomes & Aldermanni, & præpositi & cæteri Ballivi & ministri nostri, melius per Commune Consilium E *ad utilitatem Regni providebunt.*

Of Night-Watches and Guards.

Cities, Burghs Castles, &c. to be watched and Guarded.

We Ordain and firmly Command, that all Cities and Burghs, and Castells, Hundreds, and Wapentachs of our whole Kingdom aforesaid, be watched and guarded every night, and the Rounds F to be walked, to prevent Mischiefs, and the Contrivance of Enemies, as the Sheriff, Aldermen, Provosts, and our other Bayliffs and Ministers, shall by Common Advice best provide for the profit of the Kingdom.

The

(1.) Ibid. & in Seld. not. &c. fol. 191. n. 10.

The (1.) Fourth Law is the 58th.

De Clientum seu Vassallorum, præstationibus.

Who the Vassals and Feudataries were. *See the Glossary in this word.

Their Service.

Statuimus etiam & firmiter præcipimus, ut omnes **Comites**, *&* **Barones**, *&* **Milites**, *&* **Servientes**, *&* *universi* **Liberi homines**, *totius Regni nostri prædicti habeant & teneant se semper bene* **in armis** *&* **in equis**, *ut decet & oportet, & quod sint semper prompti, & bene parati ad* **Servitium suum integrum** *nobis explendum & peragendum cum semper opus adfuerit, secundum quod nobis debent, de* **Feodis** *&* **Tenementis** *suis de* **Jure** *facere; & sicut illis statuimus, per* **Commune Concilium** *totius Regni nostri prædicti & illis* **Dedimus** *&* **Concessimus** *in* **Feodo**, *jure Hæreditario, hoc præceptum non sit violatum ullo modo super forisfacturam nostram plenam.*

A

B

Of the Præstations, or Services of Feudataries or Vassals.

The Conquerors Feudataries or Subfeudataries, were Earls, Barons, Knights, and all Free-men.

We Ordain also and firmly Command, that all Earls, Barons, Knights, or such as served for them, and all Free-men of our whole Kingdom, be always fitted with Horse and Arms, as they ought to be, and always ready to perform their whole Service to us, when there shall be need, which they ought of Right to do, according to, and by Reason of their **Fees** and **Tenures**, as we ordained by the Common Council of our whole Kingdom, and gave and granted to them in Fee by Hereditary Right. This Command is not to be any ways violated, upon pain of our full forfeiture.

C

(2.) Ibidem.

The (2.) Fifth Law is the 59th.

Ut Jura Regia illæsa, servare pro viribus conentur, Subditi, the last word *(Subditi)* is put here in stead of *(liberi homines)* as appears by the Law it self.

D

The Martial Duty of the Free-men or Feudataries.

Statuimus etiam & firmiter **præcipimus**, *ut* **omnes liberi homines** *totius Regni prædicti, sint* **fratres conjurati**, *ad Monarchiam nostram, & ad Regnum nostrum, pro viribus suis & facultatibus contra inimicos pro* **posse** *suo defendendum, & viriliter servandum,* **Pacem** *&* **Dignitatem** *Coronæ nostræ, integram observandam & ad* **Judicium Regum** *&* **Justitiam** *constanter omnibus modis pro posse suo sine Dolo, & sine Dilatione faciendam.*

The Civil Duty of the same.

E

That the Free-men do endeavour, with all their Power, to preserve the Royal Rights from injury.

We Ordain and firmly Command, that all Free-men of the whole Kingdom aforesaid, be sworn Brothers, manfully to preserve and defend our Monarchy, and our Kingdom with their Force and Fortunes to our utmost of their Power, and to keep intire the Peace and Dignity of our Crown, and to give right Judgment, and to do Justice by all ways and means, according to their Power and Ability, without Fraud and Delay.

F

The

The Sixth (3.) Law is the 64th Law. (3.) Ibid. Seld. fol. 191. & Lamb. fol. 171.

De Justitiâ publicâ fide-jussoribus.

A *Omnis* **homo** *qui voluerit se teneri pro* **libero** *sit in* **Plegio**, *ut Plegius eum habeat ad Justiciam si quod offenderit, & si quispiam evaserit, talium videant Plegii, ut solvant quod calumniatum est, & purgent se quia in evaso nullam frandem noverint.*

The Borh-Law, or Law of Pledges or Sureties.

B Every man that will be holden for a Free-man, let him be within a Pledge or Decury, and let his Sureties or Pledges bring him to Justice if he hath offended, and if any man escapes or flies, let them look to the Debt or Mulct, and pay what is claimed, and purge themselves by Oath, that they knew no Fraud or Falsehood in him that escaped. These were the (4.) lowest and ordinary sort of Free-men that were thus bound to their good Behaviour, and though it was a *Saxon* Law, yet in the Circumstances the *English* were in, at that time under hard Masters, it could be no C advantageous or profitable Law to them; and this causeth me to cite the next Law, and for that our Author often makes use of the latter part of it. The Law of Pledges, or Borh-Law. (4.) See the Glossary *in verb. liberi homines.*

The Seventh and last (5.) Law is the 63d Law; the others are only Penal, and Laws of Purgation. (5.) Lamb. & Seld. ut supra.

D *Firmantur Leges* Edwardi.

Hoc quoque præcipimus, ut omnes **habeant** *&* **teneant Legem Edwardi** *Regis in omnibus Rebus,* **adauctis** *his, quas constituimus ad* **utilitatem Anglorum.**

Hence our Author (6.) infers, that these Additional Laws were made for the Benefit and Advantage of the *English Saxons*, and not the *Norman-English*. But I affirm these Laws were made five of E them, as most efficacious for the securing the Peace of the then Government, which was in consequence only for the advantage of the *Normans*, and could not be so for the *Saxons*, and one other directly and fundamentally of the greatest Benefit to the *Norman* Military Possessors, or Free-men that could be, though it be said here, *ad* **utilitatem Anglorum**, for the profit of the *English*. (6.) Antinorm. p. 24. p. 30. p. 55 p. 58. These Laws made for the Benefit of the *Norman* not *Saxon English*.

F I First I refer the Reader to the Glossary, for the frequent meaning of the Words, *Angli*, and *Anglici*, *Franci*, &c. in the old Histories, and old *Norman* Grants, Writs, and Charters, and then let him consider the meaning and intention of these Additional Laws, (as they are called) both here, and in *Gervase* of *Tilbury*, before cited.

The *first* is the *Oath* of *Allegiance* to King *William*: The *fifth* here cited is *nothing* but a *further* and *clear Explanation* and *Confirmation* of the *first*, That all *Freemen* of the whole Kingdom, should be *sworn Brothers*, to *defend* King *Williams Monarchy*, and his *Kingdom* according to their *power* and *faculties*, or fortunes, against *his Enemies*, and to *preserve* intire the *peace* and *dignity* of his Crown, *&c.*

Now let us see *who* they *were* that *swore* and *were obliged* to do this; they were *Earls*, *Barons*, *Knights*, *Esquires*, and all the *Freemen* of the *whole Kingdom*, who were always to be *ready*, *fitted* and *prepared* with *Horse* and *Arms*, according to their *Fees* and *Tenements* which were *given* them to that *purpose* by the *Conqueror*, and by the consent of the Common Council of his whole Kingdom in *fee by Hereditary Right*, as appears by the fourth Law here mentioned. Now when the *Author* of this *Argument* can *make* it *appear*, that *William Erected new Earldoms*, *Baronies*, *Knights Fees* and *Services* here, *and by the Advice and Consent of the Common Council of the Kingdom*, granted *Lands of Inheritance* to *support and maintain them*, *and* then *gave them to the* English Saxons, *I shall* agree *these three Laws were made for their* Profit.

And when he can make it appear, that the *Watches* and *Guards* set and placed in *Cities*, *Burghs*, *Castles*, *Hundreds*, and *Wapentaches*, consisted of *English Saxons*, and that his *Sheriffs*, *Aldermen*, *Provosts*, and other *Bayliffs* and *Ministers* that *were* to *Consult* how to *set* and *place* them to the *Advantage* of the Kingdom, were English Saxons, I *will* likewise *grant* that this *third*, and also the *sixth* Law here *noted* concerning *free pledges* and their behaviour, were made for their Advantage.

(7.) *Page* 84. *p.* 110. King *Williams Magna Charta*, what it was.

But what shall we say to King *Williams* (7.) Magna Charta made and granted to the *English Saxons?* contained in the *second Law* here Transcribed; Why, it was the *same* King, and the *same* Common Council of the *whole Kingdom*, that gave *Hereditary Lands* to all the *Freemen* of the *whole Kingdom* to *support* and *maintain* their *Military Services* in the fourth Law, that granted to all the *Freemen* of the whole Kingdom in the second Law to *hold* their *Lands* and *Possessions* well and in peace, free from all injust *Exactions* and *Tallage* by *Hereditary* Right for ever. And *therefore*, we say, that all the *Freemen* of the *whole Kingdom* in the *fourth* Law, and all the *Freemen* of the *whole Kingdom* in the *second* Law, were the *same* Persons; that is, such as *held* their Lands *by Knights Service* and *English-Normans*. That these were *both Feudal Laws*, their *Titles* do sufficiently prove; and that they were *granted* to his *Feudataries* or *Vassals*, King *Williams Direction* of them is a *clear Testimony*.

(8.) See *Glos. ser.* in the word *Homo*.

(9.) *Lambard*, *f.* 170.

Willielmus Dei Gracia Rex Anglorum, *Dux* Normannorum, *omnibus* (8.) *hominibus suis* Francis & Anglis *salutem*. If his *Men* or *Vassals* of *France* had no Interest, nor nothing to do in *England*, how could the *English Laws* affect them? for the Resolution of this Point, see the words *Franci & Angli*, *&c.* in the *Glossary*; 'Tis in Sir *Roger Twysdens* Copy, (9.) *Omnibus hominibus suis* Francis & Anglis *salutem*, which makes no difference, as to the sense and meaning of the words. For the further explication and understanding of these Laws,

Laws, ſee the Anſwer to Mr. *Petyt*, *fol.* 17. E. *&c.* and the *Gloſſary* in the words *liberi Homines, &c.*

From the *Title* of King *Williams* Laws, he *proceeds* to the *confirmation* of them, and *patches* up a pretty (1.) Tale from *four* different Stories (which have *no dependency* one upon another) to acquaint us with it (as he ſays) in all the neceſſary particulars. *Antinorm. p.* 25.

A

William the Firſt (quoth he) (2.) with his *French* and *Normans*, putting many *hardſhips* upon the *Engliſh*, which *occaſioned* great *Diſorders* and *Convulſions* in the State, ſeveral of the *Saxons* chief Nobility betook themſelves to Arms, for the *ſake* of their *avitæ Conſuetudines*, to which they bore an *immutable* and *immortal* Love, and which they feared ſome were endeavouring to take away, and change them; though on the other hand they were obſtinately reſolved never to part from them, for they had (3.) *à Majoribus didiciſſe* **aut Libertatem, aut Mortem,** and they would rather undergo the worſt Calamities of a Cruel War, than they would *tamely quit* and *abandon* thoſe dear Laws and Cuſtoms to which they had ſo long been uſed; for this Story he cites (4.) *Seldens* Titles of Honour, *fol.* 523. who *relates* it out of *Malmsbury*, and tells it of a Quarrel between the *Northumbrians* and their *Earl Toſti*, ſome years before the Conqueſt; And it was thus, (5.) King *Edward* after the death of *Siward* made *Toſtin Earl* of *Northumberland*, who by his *rough temper* forced the People into *Rebellion*, and finding him without an Army *drove* him out of the *Country*, killed his Men or Vaſſals, both *Danes* and *Engliſh*, ſeizing upon their *Horſe* and *Arms*, and all their Goods; which being *reported* to the King, he ſent *Harold* to *Chaſtiſe* them. The *Northumbrians* though not inferior in number, *conſulting* their own *quiet*, excuſe the Fact, ſaying, *Se homines libere Natos, libere Educatos, nullius Ducis ferociam pati poſſe, à* **Majoribus didiciſſe aut libertatem aut mortem**, and if the King would have them obedient, he ſhould ſend *Morchar* the Son of *Algar* for their *Earl*. *Harold conſidering* the *peace* of the *Country*, more than the *profit* of his Brother, *withdrew* his Army, and coming to the King, *fixed* Morchar in the Earldom.

(2.) Ibidem.

(3.) Ibidem, *p.* 26.

(4.) Ibidem.

(5.) *Malmsb. f.* 46. *b. n.* 10. The Story of Earl *Toſti* and the *Northumbrians*.

B

C

D

Upon this *Fundamental* Story, as he himſelf hath told it, he *builds* his following Diſcourſe, and proceeds in theſe words. (6.) The King hereupon, to keep the People in a greater obſervance of their Duty, and withal not forgetting the Oath he had taken at his Coronation, cauſed *twelve* of the *moſt Diſcreet* and *Wiſe Men* in *every Shire* throughout all *England* to take an *Oath* before himſelf to deal ſincerely and uprightly without turning either *ad dextram*, or *ſiniſtram*, that is, neither to flatter Prerogative or extend Priviledge, and to declare and lay open the Conſtitutions of their Laws and Cuſtoms, without concealing, adding, or in any ſort varying from the Truth. Thus far Sir *Edwards Citation* out of *Litchfields Chronicle*, and his Explication of it, and here he *leaves* him, and *applies* himſelf to the Story as 'tis to be found in *Lambards* Laws, *fol.* 149. and gives the (7.) Sum of it. That the *Engliſh* vehemently beſeeched King *William*, that they might retain their own Laws, and old Cuſtoms, in which their Fathers lived, and they were born and bred up in. He (8.) *finding there was no Remedy*, though he was long *Reſolute*, at

(6.) *Antinorm. p.* 26. and Sir *Edw. Cokes* Preface to the Eighth Report, out of *Litch.* Chron.

(7.) *Antinorm. p.* 27.

(8.) Ibid. *p.* 28. This is his own, no ſuch thing in the *Litch.* Chron. or in King *Ed.* Laws, *Tit. lex Nor.* nor in *Hoveden.*

E

F

at last in a *Common Council* of his Kingdom yields, and by his *Magna Charta*, the ground work of all those that after followed, he *confirmed* to them *their ancient Laws*; Here he is in with Sir *Edward* again, but mangles him, (9.) for he *affirms*, that *Ingulph* saith, the *Laws* in *Litchfield Chronicle* were by publick Proclamation declared Authentick, and for ever, under grievous Punishment, to be inviolably observed. The (1.) *Sum* of which, composed by *King William* into a *Magna Charta*, (the *ground work* of all those that after followed) he blessed with the *Seal* of Security, and *Wish* of Eternity, *closing* it up with this general, *And we further Command that all Men keep and observe duely the Laws of King Edward.* After this he *passeth* on with Sir *Edwards* Citation, in his own words, until he comes himself to the Testimony of *Ingulph*, which he also produceth to prove, that the *Laws* in the *Litchfield Book* were *proclaimed* as Authentick and to be observed, immediately after his Citation of Sir *Edward* and the *Litchfield* Book, saying, (2.) *Ingulphus Secretary* to *William* in *Normandy*, and afterwards made *Abbat* of *Crowland* by him, is an *unexceptionable* Witness, to prove that the *English Laws* were then anew *confirmed*, and so goes on with his Testimony as I have before Transcribed it; and adds after it, that *this Proclamation* was not all (to allay the *Storms* which perhaps the *violation* of these Laws had raised) and cites *Mat. Paris* in the lives of the Abbats of St. *Albans*, *fol.* 48. that King *William* *sware* upon all the *Reliques* of that Church, touching the holy Gospel, Abbat *Frederic* administring the Oath, inviolably to keep the good and approved old Laws of the Realm, which the Holy and Pious Kings of *England* his Ancestors, and especially King *Edward* set forth.

(9.) Preface to the Eighth Report.

(1.) *Ibid.* the very next words.

'Tis very much to be suspected by what Sir *Ed. Coke* says here, that he never saw either *Litchfield* Book, or *Ingulph's* Copy of King *Edwards* Laws.

(2.) *Antinorm. p.* 29.

A

B

C

Before we can come to his Fragment out of *Matth. Paris*, we must remark upon the *Litchfield* Story antecedent to the Laws themselves, first, that 'tis to be found in *Hoveden*, but not intire, part in *fol.* 343. *a. n.* 10. and part in *fol.* 346. *b. n.* 50. and *fol.* 347. *a. n.* 10, 20. in *Edw.* the Confessors Law, also in *Lambard*, *fol.* 138. *c.* 1. and in *fol.* 149. *Tit. lex Noricorum*, it is to be found in two parts, which put together do intirely make up that Preface. Secondly, That our Author hath omitted the date of, or time when *William* granted these Laws, which *Hoveden*, the *Litchfield* Book, and *Edward* the Confessors Laws say was, *Anno quarto Regni sui*, in the fourth year of his Reign. Thirdly, That *Ingulph* says they were the *Laws* which he brought with him from *London* in the *twentieth* year of King *William*, that he had by Proclamation caused to be observed. Fourthly, That these were *not* the *Laws* contained in the Book of *Litchfield*, which Mr. (3.) *Selden* says were only part of those Laws that are published in *Hoveden*, and that this part is to be found in (4.) *Hen. de Knighton*; and whoever will take the pains to compare them with those in (5.) *Hoveden*, he will *find* they contain but the *first* fifteen *Titles* or *Chapters*, and are the very same also with the *first* fifteen *Chapters* of those Laws printed in *Lambard*, under the *name* and *title* of King *Edwards* Laws, and both in *Hoveden* and *Lambard*, the Laws are near thrice the number of these in *Knighton*, nor are they, and the Laws in *Crowland* Copy, scarce in any Points or Chapters alike. Fifthly, And that therefore this Testimony of *Ingulph* cannot be brought by our Author, or any Man else, to prove the Grant or Confirmation of King *Edwards* Laws, as they are to be found in the

King *William* never confirmed the Laws in *Litchfield* Chronicle.

D

E

(3.) *Not. ad Eadm. fol.* 171. *n.* 40, 50.
(4.) *Col.* 2354. *n.* 60.
(5.) *Fol.* 343. *a. n.* 10.

F

the Books above mentioned; it having not the leaſt Reference to them, nor is it probable that ever *Ingulph* heard of them, or that King *William* ever cauſed Proclamation to be made, that thoſe Laws ſhould be obſerved.

A Mr. *Selden* doth not only tell us what the *Laws* were in the *Litchfield* Manuſcripts, but writes very (6.) ſuſpiciouſly of all the Laws that are attributed to King *Edward*, except the *Crowland* Copy, and ſays their *Credit* is *ſuſpicious*, that would *obtrude* upon us *other Laws* than thoſe for King *Edwards*, and that 'tis very likely there was made but *one Review* and *Confirmation* of his *Laws* by King *William*; and if there were any *more* than *one*, yet the *laſt* was only to be *allowed* and *eſteemed* Authentick, which was *Crowland* Copy.

(6.) *Not. ad Eadm. f.* 172. *n.* 10, 20. *Crowland* Copy the only Authentick Copy of King *Edwards* Laws confirmed by King *William.*

B After this we come to the *Story* of *Abbat* (7.) *Frederic* in *Mat. Paris*, which concludes the *Tale* of the *Confirmation* of King *Edwards Laws* by King *William*; as his conſtant manner is, our Author gives us but a *ſhred* of it, yet I think 'tis as much as Sir *Edward Coke mentions* of it, and the ſame words only. The whole is thus. King (8.) *William armed with his own and the Papal Power, began to deal more ſeverely with the* Engliſh, *and they ſeeing their Lives lie at ſtake, conſpiring together, raiſe a numerous* Army, *and meeting at* Berkhamſtede, *placed* Edward Ethelinge *at the Head of them. The* C *great* Promoter *of this Deſign was* Frederic *then* Abbat *of St.* Albans, *but by the Eccleſiaſtical Power and Mediation of Arch-Biſhop* Lanfranc, *after much Debate he obtained of* William, *(who vehemently feared, he might loſe the Kingdom he had gotten with ſo great Effuſion of Blood) to* Swear *upon the Holy Goſpels, and the Reliques of the Church of St.* Albans, *That for the good of Peace, he would* obſerve *the* good, *and* approved, ancient Laws *of the Kingdom, which the Pious Kings of* England, *and eſpecially King* Edward *had inviolably* D *obſerved.* Frederic *adminiſtring the* Oath, *with which they were all ſatisfied, and returned to their own homes.*

(7.) *Arg. Antinorm. p.* 30. *Cokes* Preface to the Eighth Report. *Fun Angl. ab antiquo, p.* 139 148.

(8.) *Mat. Paris, f.* 48. *n.* 20, 30, 40. The Story of *Frederic* Abbat of St. *Albans.* The *Engliſh* would have made *Edward Ethelin*g King.

But he *craftily concealing* his Intentions, within a few days *privily* and *ſuddenly* ſurprized them when *ſingle* and *diſperſed*, who being *united* in a Body, he could not overcome; many he *put* to *death*, from others he *took their Eſtates*, and very many he *Baniſhed*, *violating* the *Law* he had *ſworn* to obſerve, taking away their *Eſtates* E at his own *pleaſure*, without *judicial proceedings*, thereby *impoveriſhing* the *Natural Engliſh*, and *enriching* his *Normans.*

William violates his Oath, deſtroys the *Engliſh*, and takes away their Eſtates.

Edward Etheling (9.) fled into *Scotland*, many of the *Noble Engliſh* fled into *Denmark*, and ſome into *Norway*, being no way *willing* to *ſubmit* to the *Toke* of *Norman Servitude.* (1.) Abbat *Frederic* mightily fearing leſt the *King* or his *Lanfranc* ſhould take *notice* of him, as the *chief Encourager* of the *Engliſh*, and ſo either put him to F *death*, or *keep* him in Priſon, by *leave* and *advice* of his *Convent* took with him ſome Books and other Neceſſaries, and fled privately into the *Iſle* of *Ely*, where after ſome ſhort time, he grew very infirm and *died*, after whoſe death *William* kept the Monaſtery of St. *Albans* in his own hands, cutting down the Woods and impoveriſhing the Tenents; and unleſs he had been reſtrained by the *corrections* of *Lanfranc*, had irrecoverably *deſtroyed* the whole Monaſtery, who at length

(9.) Ibidem *Edward Etheling* and the *Engliſh* fly.

(1.) Ibid. *f.* 49. *lin.* 4. *n.* 10. 20. *at Rex vel ſuus Lanfrancus.*

Abbat *Frederic* flies into the Iſle of *Ely* and dies.

length procured his *Kinsman Paul* a *Monk* of *Caen* in *Normandy*, that he had brought over with him, to be *made* Abbat, (2.) on the Twenty eighth of *June* 1077. in the Eleventh year of King *William* the (3.) Conqueror, (4.) *Hic fuit primus Abbas hujus Ecclesiæ, postquam* **Anglia Normannis** fuit (5.) **penitus subjugata.** This was the first Abbat of this Church after *England* was *wholly subdued* by, or put under the *Toke* of the *Normans.*

(2.) Ib. n. 30.
(3.) Ibidem.
(4.) Ibidem.
(5.) Ibidem. *England* wholly subdued by the *Normans.*

A

After the Reader hath *considered* what a *miserable* Story he hath patcht up out of *fragments partially cited*, concerning the *Confirmation* of *Edwards* Laws, he will be able to judge whether there be any *reason* for his *Triumphal Conclusion* of it, in the very next words after. Thus (6.) we see (quoth he) the *mighty Conqueror* **Conquered**, *and solemnly renouncing all Arbitrary* **Will** *and* **Power**, *submits his* **Will** *to be* **regulated** *and* **governed** *by Justice, and the* **ancient Rights** *of the* **English:** 'Tis *presumed* before his *second Triumph*, or the *second Edition* of his *idle* Frontispice, with the *Explanation* of it, or of the *Romantick* Poetry to the Learned Author, *he will make it appear*, that King *William kept all his Oaths* and *Promises* he *made at his Coronation*, and at *all other times*, and that the *Natural* or *Saxon-English* really and truly enjoyed the benefit of them.

(6.) *Arg. Antinorm. p.* 30.

B

After this *Story* of the *Confirmation* of King *Edwards* Laws, * he harps upon the *signification* of the word *Conquestus*, and would have it signifie Purchase, as it doth in the *Feudal Law*, *Antiquum* (7.) *feudum id dicitur, in quo quis patri, avo, vel alteri Majorum successit, Novum dicitur Quod in persona ejus, qui primus illud acquisivit initium Capit, nec ex successione majorum provenit, Scoti Conquestum, Angli* **purchase** *vocant.* It is said to be an *Ancient Fee*, in which any one succeeds his Father, Grandfather, or any of his Ancestors. A *new Fee* is that which takes beginning in the *person* of him that first bought or had it, and which was not from the succession of Ancestors. The *Scots* call this *Conquest*, the *English Purchase*. Again *Antiquum* (8.) *Feudum hæreditas, novum Conquestus, dicitur ab Anglis, & Normannis* **Pourches.** An *Ancient Fee* is called an *Inheritance*, a *new* one *Conquest*; The *English* and *Normans* call it Pourches, from the first Purchaser or Conqueror, for when 'tis (9.) transmitted to his Heir, it then becomes an Inheritance. This is the meaning of the word in private Cases, and in private Estates or Fees, but it cannot be *with any colour referred* to a *Kingdom* that was *subdued* by force. He is desired *to let us know of whom William purchased this Nation, and what he gave for it.*

* *Arg. Antinorm. p.* 31. His ridiculous Exposition of the word *Conquestus.*
(7.) *Cragius de feud. f.* 55.
(8.) Ib. *f.* 242.
(9.) *Skene in verbo Conquestus.*

C
D
E

The *Textus Roffensis* gives us in our present Case the true meaning of the word in the beginning of the Relation of the *Plea* at *Pinenden*, between Arch-Bishop *Lanfranc* and *Odo* Bishop of *Bayeux*, (1.) *Tempore Magni Regis Willielmi qui Anglicum Regnum* **armis Conquisivit**, *& suis ditionibus subjugavit, Contigit, &c.* In the time of great King *William* that *Conquered England by Arms*, and brought it under his *Toke* and Dominion, it happened, *&c.* We may with other *Circumstances* believe and rely upon this, as the most true *sense* of the word *Conquestus* in this Case, and think that the *French Monk Ernulph* that wrote it, who was (2.) *Consecrated* Bishop of *Rochester* in the year 1115. not fifty years after *William* was possessed of

(1.) *Text. Roffen.* cited by *Seld.* in *Not. ad Eadm. f.* 197. n. 40.
(2.) *Text. Roff. p.* 168. *Malmsb. f.* 133. *d.* n. 10. *Godw. p.*

F

of the Kingdom, underſtood the meaning of it, better than ſuch as wrote two, three, four, or five hundred years after him, or Men of yeſterday.

This is a *ſufficient Anſwer* to what he brings out of Sir *Henry Spleman*, and Sir *John Skene* upon this word; but ſtill there is a notable Authority behind which he fetcheth from (3.) *Mat. Paris, f.* 941. *n.* 40, 50. his words out of that Hiſtorian are theſe, *Rex Angliæ ex Conqueſtu, dicitur tamen quod beatus Edwardus, eo quod hærede Caruit, Regnum legavit Willielmo Baſtardo, Duci Normannorum.* He makes no inference from theſe words, nor indeed can he, to his advantage; and if he had not concealed what went before, and what followed them, any Man might wonder why he cited this place to juſtifie his Expoſition of the word *Conqueſtus*. (3.) *Arg. Antinorm.* p. 1.

Paris, reckoning up the *Eccleſiaſtick* and *Lay Peers* of *France*, ſays *Dux Normanniæ, primus inter laicos & digniſſimus: Rex Angliæ, Dux eſt de* **Jure** *Normanniæ,* **Sanguinis derivatione genitali**; *Rex ex* **Conqueſtu**, *dicitur tamen, quod beatus Edwardus eo quod hærede Caruit, Regnum legavit Willielmo Baſtardo Duci Normannorum. Sed hoc robore aſſeritur Caruiſſe; quia hoc fecit in lecto lethali, & ſine* **Baronagii** *ſui Comuni aſſenſu.* That is, the Duke of *Normandy* the firſt, and moſt worthy of the Lay Peers. The King of *England* is *Duke* of *Normandy* by *Right* of *Blood*, King by *Conqueſt*; yet 'tis ſaid that St. *Edward*, becauſe he *wanted* an Heir, *bequeathed* the *Kingdom* to *William* the Baſtard Duke of *Normans*. But 'tis *affirmed* this *wanted Strength*, for that he did it in his Death Bed, and without the *common aſſent* of his *Baronage*. Whoſoever *conſiders* the *word Conqueſt* in this place, as it ſtands in oppoſition, both to *Right* by *Blood*, and *Right* by *Donation*, and as it *refers* to King *Williams obtaining* the Kingdom of *England*, cannot *interpret* it otherwiſe, than that it was a *Conqueſt by Arms*. Therefore this Authority is directly againſt him, but 'tis uſed according to his common underſtanding. His Partial Citation of *Mat. Paris.*

Laſtly, Conſidering that his *interpretation* of the word *Conqueſtus* might yet remain *dark* and *obſcure*, for the better (4.) illuſtration of it, to diſabuſe the World in this point, he gives the Gentleman for *whoſe ſatisfaction* he wrote this Diſcourſe, a *ſummary Series* of the *Stiles* of the ſeveral *deſcendent* Kings, from *William* the Firſt, inclusively to *Edward* the Third, which are only, *Willielmus Rex Anglorum, Willielmus Rufus Rex Anglorum, Stephanus Rex Anglorum, Richardus Rex Angliæ, Johannes Rex Angliæ, Dominus Hiberniæ, Henr. filius Johannis Rex Angliæ, Edwardus Rex Angliæ, Edwardus filius Edwardi Rex Angliæ, Edwardus Rex Angliæ tertius poſt Conqueſtum.* This is his *ſummary Series*, and if it be well obſerved, 'tis a *notable Illuſtration* of his *Expoſition* of the word *Conqueſtus* in his ſenſe, that *eight* or *nine* Kings after him, and King *William* himſelf, *ſtiled* themſelves *ſometimes*, Kings of the *Engliſh*, and *ſometimes Kings* of *England*, and that in this *caſe* it ſignifies only *Purchaſe* and not *Conqueſt* by Arms. (4.) *Arg. Antinorm.* p. 34, 35, 36. His impertinent uſe of the Stiles of the *Engliſh* Kings.

For a further (5.) proof, that King *William* did not *cancel* and *aboliſh* all the *Engliſh Laws*, (when no Man aſſerts that he did) nor change, as is ſo much affirmed, the *whole Frame* and *Conſtitution* of the (5.) *Arg. Antinorm.* p. 37.

the Government, he *shrowds* himself under the *Judgment* of Mr. *Selden*, and the *Opinion* of Sir *Winston Church-hill*, such *unquestionable Authorities* (he says) as may sufficiently ballance, if not totally *depress* the fiercest of Gainsayers. He begins with Mr. *Seldens Discourse* upon this Controversie in his (6.) *Review* of the History of Tithes, which is *retailed* and *vented* in *parcels over and over again in this Discourse*, Mr. Petyts *Ancient Rights of the Commons Asserted*, and all that treat upon this Subject, and therefore I shall give no other Answer to it, than what the Reader may find *to the several Particulars of it*, in this *Answer*, and in that to Mr. *Petyts* Book just before mentioned. And as to what the very *Worthy* and *Learned* Gentleman Sir *Winston Church-hill* hath said, he is yet *living*, and is *best able* to *explain* his own meaning.

(6.) *Pag.* 482, 483, 484.

A

The next (7.) *proof* he brings, that the *Natives* had their *Laws* continued to them, is the *Authority* of (8.) *Florence* of *Worcester* in these words, *Henricus primus omnes malas Consuetudines, & injustas Exactiones, quibus Regnum Angliæ injuste opprimebatur, abstulit, pacem firmam in toto suo Regno posuit, & teneri præcepit. Legem Regis Edwardi omnibus in Comuni reddit, cum illis* Emendationibus, *quibus pater suus illam Emendavit.*

(7.) *Arg. Antinorm.* p. 54.
(8.) *Fol.* 650.

B

Henry the First took away all ill *Customs* and unjust *Exactions*, with which the Kingdom of *England* was *oppressed*, and *settled* a *firm Peace* in the Nation, and Commanded it should be kept; He *restored* the *Law* of King *Edward* to all in common, with those *Emendations* with which his Father had mended it; or as Sir *Edw. Coke* (9.) says, with those *amendments* which his Father *added* by the *advice* of his Barons.

(9.) Preface to the Eighth Report.

C

In that Preface Sir *Ed.* cites *Hoveden*, whose (1.) words are the *same* with those of *Flor.* of *Worcester*, and insists much upon it there, That *Henry* the First did *restore* to the *English* their *Laws* and *Customs*, and *abolished* all Evil Customs; and otherwhere he (2) says the good King *Henry* the First, Son of the Conqueror *finding* that the *Wardship* of the *Body* and *Lands* of his *Tenents* by *Knight Service*, exacted by his Father, was both *grievous* and *unjust*, by his *Great Charter*, *Anno Regni sui primo*, Reciting, *quod Regnum suum oppressum erat, injustis exactionibus, &c.* (and particularly *tempore patris sui*) *did grant* (amongst other things) *Quod si Uxor cum liberis remanserit, dotem suam & Maritagium habebit, dum corpus suum legitime servabit, & eam non dabit nisi secundum velle suum, & terra & liberorum Custos erit, sive uxor, sive alius propinquior, &c.* To be short, by that *Golden Charter*, *omnes malas Consuetudines*, *Quibus Regnum Angliæ injuste opprimebatur inde abstulit, & lagam Regis Edwardi reddidit.*

(1.) *Fol.* 268. *n.* 2. 10.

(2.) *Instit.* 4. *f.* 193.

Sir *Edward Coke's* mangling of *Henry* the First his Charter.

D

E

This great Man makes short work with a great *Golden Charter*, but it must not pass so, *lest* it be upon the *making* another Discourse such as this, *returned* in *fragments*; and it's necessary something be said of the *occasion* of it, before we *inquire* into the *nature* of the *Charter* it self.

He makes short work with it.

F

This

This *Henry* was a *meer Uſurper*, the youngeſt Son of *William* the Conqueror, his eldeſt Brother *Robert* Duke of *Normandy* then *alive*, and gone in an (3.) *Expedition* to the Holy Land; and being upon his (4.) return, he made what haſte he could to make himſelf King, before it ſhould be *known* to the *Nobility*, his *Brother* was *ſafe* and returning home; and as a *means* to accompliſh his purpoſe, (5.) immediately ſent upon the death of his *Brother William Rufus*, his *Edict* through *England*, and prohibited the unjuſt Inſtitutions of him and *Ranulph* Biſhop of *Durham*, the great Oppreſſor of the People under him.

Henry the Firſt an Uſurper.
(3.) *Paris*, *f.* 55. *n.*
(4.) *Ibid* his Policy.
(5.) *Ibidem.*

After which calling together (6.) the *Clergy*, and *People* or *Laity*, at *London*, and promiſing to them the *amendment* of the Laws, by which in his *Fathers* and *Brothers* time the Nation had been oppreſſed, he ſo *reconciled* the *minds* of all to him, that they *received* him as their King and Patron, who on the day of his (7.) Coronation, *granted* them this *Charter* (and would have *granted* any thing elſe without doubt rather than not have been King) under his *Seal*, and *divulged* it to be kept as a *Monument* through the whole Kingdom; or as (8.) *Mat. Paris*, to be *preſerved* as a *Monument* in the *Abbies* of every County. The *Charter* it ſelf here follows.

(6.) *Paris*, *Ibidem.*
(7.) *Eadm. f.* 55. *n.* 40.
(8.) *Fol.* 56. *n.* 30.

Henricus (9.) *Dei Gratia Rex Angliæ* * **Hugoni** *de* **Bocland** *vicecomiti, & omnibus fidelibus ſuis tam* **Francis**, *quam* **Anglis** *in* **Herefordſyre** *ſalutem. Sciatis me Dei miſericordia, & Communi Conſilio* **Baronum** *Regni Angliæ Regem eſſe Coronatum, & quia* **Regnum** *fuit* **Oppreſſum** *injuſtis Exactionibus, ego Reſpectu Dei & Amore quem erga vos omnes habeo,* **Sanctam** *Dei* **Eccleſiam liberam** *facio, Ita Quod nec eam* **vendam**, *nec ad* **firmam** *ponam, nec mortuo Archiepiſcopo vel Epiſcopo vel Abbate aliquid accipiam de Domino Eccleſiæ, vel de hominibus, donec ſucceſſor in eam ingrediatur. Et omnes malas Conſuetudines, quibus Regnum Angliæ injuſte opprimebatur, inde aufero quas Malas Conſuetudines in parte hic pono.*

The Charter of *Henry* the Firſt.
(9.) Ibid. *f.* 55. *n.* 40.
* *Hugh de Bocland* was a *Norman*, and a mean Perſon preferred by King *Hen. Order. vit. f.* 805. B.

Sanctam Dei Eccleſiam liberam facio ita quod nec eam vendam, &c. Here he explains himſelf, what he meant by making the Church free, *Rufus* by his Inſtrument *Ranulph* aforeſaid, *contrary* to *Eccleſiaſtical Right*, (1.) when Biſhops and Abbats died, *ſold Biſhopricks* or *Abbies* to thoſe would give moſt for them, or let them to farm, and by that means every year brought him in a great Sum of Money, and at the time he was ſlain, he *had* in his *hand* (2.) the *Arch-Biſhoprick* of *Canterbury*, and the *Biſhoprick* of *Wincheſter*, and *Saliſbury*. *Nec mortuo Archiepiſcopo vel Epiſcopo vel Abbate aliquid accipiam, &c.* Neither upon the *death* of an *Arch-Biſhop*, *Biſhop*, or *Abbat*, will I take any thing of the *Fee*, *Royalty*, or *Demeaſns* of the Church, (Lands which the Biſhops and Abbats kept in their own hands) nor of their Men, (that is, their Tenents, Vaſſals, or Uſufructuaries) until a Succeſſor be placed in it.

Ranulph Biſhop of *Durham*, *Rufus* his Inſtrument.
(1.) *Flor. Wigorn. f.* 649.
(2.) *Ibid.* 650.

Et omnes Malas Conſuetudines, &c. Theſe ill Cuſtoms with which the *Kingdom* was oppreſſed were ſince the Conqueſt, for of the *Laws* or *Taxes* or *Cuſtoms* before that time, the *Monks* that wrote the Hiſtory of thoſe times complain not; Therefore the *ill Cuſtoms* here to be amended *grew* in his *Fathers* and *Brothers* Reigns; and by what

follows in this Charter, it may be easily conjectured, they were chiefly, if not *only*, the *not allowance*, or *observation* of the 55th *Feudal* and *Additional Law* of the *Conqueror* to *those* of *Edward* the *Confessor*, in which it was provided they should *hold* their Lands well and in peace, *free* from all *unjust Exaction*, and all *Tallage*. The ill *Customs* here meant were therefore the *Exactions* and *Usages* of his *Father* and *Brother*, and they could be *no other* as is evident by the words immediately following, (*Quas Malas Consuetudines hic in parte pono.*) This *Charter* being for the most part a *Relaxation* and *Abatement* of *Feudal* Impositions almost every where in all Nations of *Europe*, according to that *Law allowed* and *practised*.

(3.) *Lamb. f.* 170.

Customs in this Charter are Payments or Exactions.

A

Si quis **Baronum** *meorum* **Comitum** *vel aliorum, qui de me Tenent, Mortuus fuerit, haeres suus non redimet Terram suam sicut facere Consuerat tempore patris mei, sed justa & legitima Relevatione relevabit eam, similiter & homines* **Baronum** *meorum legitima & justa Relevatione Relevabunt terras suas, de Dominis suis. Et si quis* **Baronum**, *vel aliorum* **hominum** *meorum, filiam suam tradere voluit, sive sororem sive neptem, sive Cognatam, mecum inde loquatur, sed neque ego aliquid de suo, pro hac licentia accipiam, neque defendam ei Quin eam det,* **Excepto**, *si eam dare voluerit inimico meo, & si mortuo Barone vel alio homine meo filia haeres remanserit, dabo illam cum Consilio* **Baronum** *meorum cum terra sua, & si mortuo marito uxor ejus remanserit, & sine liberis fuerit, dotem suam, aut Maritagium habebit, & eam non dabo marito, nisi secundum* **belle tuum**, *si vero uxor cum liberis remanserit, dotem suam & Maritagium habebit, dum Corpus suum legitime servabit; Et eam non dabo, nisi secundum* **belle tuum**. *Et terrae liberorum* **Custos** *erit, sive uxor, sive alius propinquior, qui justius esse debet, & praecipio ut homines mei, similiter se Contineant, erga* **filios & filias**, *&* **uxores** *hominum suorum.*

This Paragraph a Relaxation of the Rigor of the Feudal Law.

B

C

This Paragraph, and indeed the whole Charter, is only a Relaxation of the Feudal Law used at this time in *Germany*, *France*, *Normandy*, *Italy*, and all the *Europian* Nations, as any that ever heard of, though he hath not throughly read them, must acknowledge; and it's evident this Charter was not a Declaration or Restitution of any old Laws or Customs, but a meer Relaxation or Abatement of the Feudal *Norman* Law, practised by his Father and Brother, in exacting great Reliefs, and concerning the Wardship of Orphans, and disposing of them, and Widows in Marriage. If Relief, Wardship, and Marriage, be three necessary Consequences, and undoubted Marks of Feudal Tenure, (as I think no body can deny it) then was this Paragraph undoubtedly, only a making easie those three main Consequences of such Estates, and granted by an Usurper that was to deny nothing.

D

E

Monetagium *Comune quod capiebatur, per civitates vel comitatus quod non fuit tempore Edwardi Regis*, (that is, which only was in the time of his Father and Brother) *hoc ne amodo fiet omnino defendo* (I altogether forbid.)

F

(4) *Grand. Cust. c.* 15. *Monetagium* taken of, and what it was.

Monetagium here, (4.) Moneage in *Normandy*, was an Aid or Duty paid to the Duke of *Normandy* once in three years, that he should cause, or suffer the current Money of *Normandy* to be changed.

changed. Which was paid by all in *Normandy* that had Moveables, or Rents of such a value, and had Residence or a Fire Hearth there; except the Clergy, Chevaliers, or Tenents in Military Service, and their Children by their Lawful Wives, and others there excepted. 'Tis probable this Imposition was brought into *England* by his Father, and continued by his Brother, and laid upon Military and Clergy Men as well as others, and was taken off by this Clause of the Charter.

A

Omnia Placita & omnia Debita, Quæ Regi fratri meo debebantur, **Condono**, *exceptis firmis meis, & exceptis illis quæ facta erant pro aliorum hæreditatibus, vel pro illis rebus quæ justiciis alios Contingebant; Et si Quis aliquid pro hæreditate sua pepigerit, illud Condono & omnes Relevationes, quæ pro rectis hæreditatibus factæ erant.*

He Pardons all Debts in the Exchequer and Punishments due to his Brother.

B

Placita here signifies Penalties, Mulcts, or Emendations, according to (5.) *Gervase* of *Tilbury*, or the Black Book in the Exchequer. *Placita autem dicimus pœnas pecuniarias, in quas incidunt delinquentes.* See *Leges Hen.* 1. *c.* 12, 13. Hence 'twas said anciently, *Comes habet tertium denarium placitorum*, that is, the third part of the Money due upon Mulcts, Fines, or Punishments, as well as other Profits of Pleas.

(5.) *Lib.* 2. *Tit.* 13.

Placita signifies Mulcts.

Of which the Earl had the third part.

C

Si quis **Baronum** *vel* **hominum** *meorum infirmabitur, sicut ipse dabit, vel dare disposuit, pecuniam suam,* (that is, his Goods and Moveables) *ita datam esse volo.* If any of my Barons or Vassals fall sick, he may dispose of his Stock as he pleaseth; *De feudo Testamenti nulla est factio, Hottom. in lib.* 1. *feud. Tit.* 8. And it should seem by this Clause, that Barons before this Charter could not without Licence dispose of their Personal Estates by Will; *Quod si ipse morte preventus, pecuniam suam nec dederit, nec dare disposuerit, uxor sua liberi & parentes, & legitimi homines sui, eam dividant pro anima sua, sicut eis melius visum fuerit.* Yet notwithstanding this Charter, the King or Lord by Law had Intestates Goods and Chattels, in *Henry* the Second's Reign, according to *Glanvill*, (6.) *Si quis vero intestatus decesserit omnia Catalla sua*; When any one dieth Intestate, all his Goods and Chattels are his Lords, if he had many Lords, every one had those found upon his Fee; and the Goods of all Usurers belonged to the King, whether they died Testate or Intestate.

D

(6.) *Lib.* 7. *c.* 16.

E

Si quis **Baronum** *vel* **hominum** *meorum, forisfecit, non dabit vadium in miseria pecuniæ suæ*; That is, If any of his Barons or Feudataries forfeited, he should not forfeit, or give Security to answer all his Goods or Moveables, as they did in the time of his Father and Brother, *sed secundum forisfacturæ modum, &c.* but his forfeiture or punishment should be answerable to the nature of his fault. *Quod si* **perfidie** *vel* **sceleris** *Convictus fuerit, sicut culpa, sic emendet.* This Perfidiousness was called **Felony**, (7.) and was a forfeiture of the Fee, but there being degrees of Treachery and Ingratitude, the Feudatary here was to make satisfaction only according to the greatness or smallness of the Crime.

Punishment to be according to the nature of the fault.

(7.) *Hottom. in verb. felonia.* Treachery punished according to the Heinousness of it.

F

Murdra etiam retro (that is the Money Mulcts, or Punishments due for Murder comitted) *ab illa die qua in Regem Coronatus fui*

Murder penal.

omnia condono; From the day in which he was Crowned he forgave it all. *Et ea quæ amodo facta fuerint juste emendentur, secundum legam Regis Edwardi*; And for the future the Fine or Pecuniary Mulct for Murder should be the same it was in King *Edwards* Laws, which was Forty six Marks; See Law 53 of *Selden*, and Law the 15th of *Lambard*. King *William* and his Son *Rufus*, besides that they raised the Fine or Punishment for the Murder of a *Norman*, and put the payment of it more strictly upon the Hundred than before, they also punished the *English* (8.) with severe Torments. This Law restored the old Fine for Murder as it was formerly. A

(8.) *Gervas. Tilbur. lib.* 1. *Tit.* 23.

Forestas Communi Consilio Baronum meorum, in manu mea ita retinui, sicut pater meus eas habuit. There were mighty Clamours against his Father and Brother, concerning Forests, and the Laws and Rules they directed for their Government, yet these the Barons allowed and submitted to, seeing they were small matters in respect of the great Advantages they had by the renunciation of his Feudal Rights. B

The Lands which the Military Men used themselves were not to be Taxed.

Militibus Qui per Loricas Tetras suas defendunt, Terras Dominicarum carucarum *suarum quietas ab omnibus Geldis, & omni proprio dono meo concedo.*

Military Fees are sometimes called *feoda Loricæ* (9.) and sometimes *feoda* (9.) *Hauberticæ*, *Loricæ* signifying particularly a Coat of Mail, and *Haubert*, Halbert or Halbard, a Lance, Javelin, or Halbert; which particular words at length either of them came to be used for the whole Armour of an Horseman, which was a Coat of Mail, a Shield, a Sword, Helmet, and Javelin or Halbert: as likewise did *Scutum*. To these Milites or Chevaliers, he granted their Demeasns or Lands which they kept in their own hands, and occupied themselves, should *not* be Taxed; but for others let out to Tenents (1.) they were still liable to Tallages and Impositions, which the Tenents paid to their immediate Lords; and for this *Indulgence* he expects. C D

(9.) See the *Glossary* in the words.

(1.) *Spelm. Glossar. in verb. feudum.*

For these favours, he expects they should be ready with Horse and Arms to defend the Kingdom.

Ut sicut tam magno Grabamine *alleviati sunt, ita equis & armis bene se instruant ut apti & parati sint ad* servitium suum, *& ad defensionem Regni sui.* That as they were freed from such great Burthens upon their Estates, so they should be well furnished with Horse and Arms, ready and prepared for his Service, and for the defence of his Kingdom. This plainly shews who were mostly to receive the benefit of this Grant, his Barons, Chevaliers, Knights, and Military Men, amongst whom, all or most of the (2.) Lands of the Nation had been divided; And after all this he adds, E

(2.) *Append. n.* 10.

Pacem firmam pono in toto Regno, & teneri amodo precipio; Legam Regis Edwardi, vobis reddo, cum ea Emendationibus, *quibus pater meus eam emendavit Consilio Baronum suorum.* I settle a firm Peace in the whole Kingdom, and Command it to be kept for the future. I restore to you the Law of King *Edward*, with those Emendations with which my Father altered or amended it, by advice of his Barons. These were the Laws of King *Edward* which *Ingulph* Abbat of *Croyland* brought with him from *London*, of which enough hath been said before. F

Si

Si quis aliquid de meo, vel de rebus alicujus, poſt obitum Regis Willielmi fratris mei cepit, totum cito reddatur abſque emendatione, ſed ſi quis inde aliquid retinuerit, ille ſuper quem inventum fuerit, graviter mihi emendabit. If any one hath taken any thing of mine, or any other Mans, ſince the death of my Brother King *William*, he may preſently reſtore it without Puniſhment, but if he reteins it, and it be found in his poſſeſſion, he ſhall be grievouſly Fined to me.

A

His Teſtibus, (Mauritio Londinenſi Epiſcopo) he was a *Norman*, King *Williams* (3.) Chaplain firſt, and then Chancellor. *(Willielmo Wintonienſi Electo)* his name was (4.) *Giffard* and a *Norman*, he was choſen in the time of *Rufus*, in the abſence of *Anſelm* at *Rome*, but by reaſon of the (5.) Conteſt between *Rufus*, *Henry* the Firſt, and *Anſelm*, about Inveſtitures, he was not Conſecrated, until ten years after his Election, or Deſignation by *Rufus*. *(Girardo Herefordenſi Epiſcopo)* he was a *Norman* and Chancellor under King *William* the Firſt, and Second. *(Henrico Comite) Hen.* of *Newborough* Earl of *Warwick*, a *Norman*, and a great Contriver (7.) of *Henry*'s Kingſhip. *(Simone Comite) Simon Sylvanectenſis, Simon S. Liz.* a noble *Norman* Earl of (8.) *Huntingdon* and *Northampton*. *(Waltero Giffard Comite)* he was a *Norman*, Earl of *Buckingham*, and Brother to Biſhop *William*. *(Roberto de Monteforti) (Rogero Bigod)* two known *Normans*, *& aliis Multis*. Not an *Engliſhman* amongſt theſe Witneſſes, of which if any Man doubts, let him peruſe *Dugdales Baronage*, in the ſeveral Names and Titles, *Malmſb. de geſtis pontificum Eadmer*, and the Hiſtorians of thoſe times; From whence 'tis more than probable, this Charter was an Indulgence, and an Abatement of the Common Feudal Law, granted to the *Norman Engliſh*, ſuch as lived in *England*, rather than to the ancient Natives, or *Saxon Engliſh*, as it will appear hereafter.

B

C

(3.) *Godw. de preſul.* p. 233.
(4.) Ibidem, p. 269.
(5.) *Ibid.* and p. 92.
(5.) Ibid. *inter. Epiſc. Ebor.* f. 27.
(7.) *Malmſb.* f. 88. a. n. 20
(8.) *Dugd. Baron.* f. 58 col. 2.

Not an *Engliſhman* to be found amongſt the Witneſſes to King *Hen.* Charter.

D This Gentleman (9.) ſays, it was the powerful and greateſt Intereſt of the *Engliſh* that kept the Crown upon *Rufus* his Head, maugre all the power of the *Normans*, who univerſally joyned with his Brother *Robert*. Here he muſt mean the *Engliſh Saxons*, and not the *Engliſh Normans*, or he proves nothing, the truth of which will be examined, when we come to conſider the Directions of the Charters of the firſt *Norman* Kings.

(9.) *Arg. Antinorm.* p. 57.

E

The Third Queſtion.

Whether it be true, that the *Engliſh* had neither Eſtates nor Fortunes left? but all was divided between the King and his *Normans*.

Arg. Antinorm. p. 58.

F As the two foregoing Queſtions have not been rightly ſtated, ſo neither is this, for 'tis not barely, Whether the *Engliſh* had Eſtates or not? but, Whether they poſſeſſed them in the ſame manner and condition after the Conqueſt, they did before? Many *Saxons* had Eſtates, and the ſame Lands they held before the Conqueſt, but after it, they received them from the *Normans*, and held them as their Tenents, and under ſuch Compoſition, Rents, and Services as they put upon them. See the Anſwer to Mr. *Petyt's Ancient Rights, &c.* f. 12. A.

The *Engliſh Saxons* that held their Eſtates, had them upon Terms from the *Normans*.

And

(1.) *Append.* n. 10.

All the Lands in *England* possessed by *William*, and distributed to his Followers.

And 'tis demonstrable by a (1.) Catalogue of all the Tenents names that held Lands of the King in every County of *England* that was surveyed, that the whole Nation was divided between the Conqueror and his *Normans* or Followers; and that whosoever held any Lands, Manners, or Towns, held them of the Persons there named, which were all Strangers, such as came in with *William*, or followed him, except perhaps some very few Bishops, Abbats, or Churchmen that had their Lands restored again by the Mediation of Arch-Bishop *Lanfranc*, as is shewed in the Preface to the *Norman* Story; and *Taini* or *Ministri*, Servants and Rural, or other small Officers, that had served *Edward* the Confessor, and were afterward retained by the Conqueror. A

(2.) *Arg. Antinorm.* p. 58, 59.

To make good his (2.) contrary Assertion, he again is upon the foil, That King *William* was received upon Terms, and that the *Saxons* had their Laws confirmed and continued unto them, and therefore their Estates also. This hath been sufficiently spoken to before. B

(3.) Ibid. p. 61, 62. *Petyt's* Preface to *Ancient Rights*, &c. p. 23.

His next (3.) Argument to the same purpose, is the old thredbare, over-worn Fable of *Sharnborn*; Thus, *Edwin* of *Sharnborn*, and several others that were ejected out of their Estates and Possessions, went to the Conqueror and told him, that they never either before, or in, or after the Conquest were against him, either by their Advice or any other Aid, but kept themselves peaceably and quietly; and this they were ready to make out, which way soever the King pleased to appoint; whereupon he ordered an Inquisition to be made throughout all *England*, whether it were so, or not, which was plainly proved; Therefore he presently Commanded, that all those who so kept themselves peaceably in manner aforesaid, as these had done, should be repossessed of their Lands and Estates, as fully and quietly, as they ever held them before his Conquest. C D

(4.) Ibidem, p. 63.

This is a Case, saith our Author, (4.) so full to the point, and so plain to every common understanding in it self, that it would be frivolous to make any deductions from it; and so it is, if it had been true. There is no such Plea as this in all *Domesday* Book, nor any like it, which Survey (as hath been said) was finished in the Twentieth year of the Conqueror, who presently after went into *Normandy*, and never returned again into *England*, nor is there any such Person as *Edwin* to be found in *Domesday* that held any Lands in *Sharnborn*. See full satisfaction given to this in the Answer to the *Ancient Rights of the Commons*, f. 11. E. f. 12. A. B. C. E

The partiality and disingenuous Citations of the Author of *Jus Anglor.* &c.

**Jus Angl. ab antiquo*, p. 95.

*This Gentleman understands not the meaning of *Virgata*, a Virgate was the fourth part of a Hide.

But though there are really no such Pleas as this pretended and sham Plea of *Sharnborn* in *Domesday* Book, yet the Author of *Jus Anglorum ab antiquo*, hath endeavoured to make some very near, and like unto it, by mangling, partially, and false citing some Entries in that great Record, by which he pretends to shew several Claims, or * Titles allowed. *Aldredus frater Ode Caluminatur unam virgatam terræ de hoc Manerio & dicit se eam tenuisse die qua Rex Edwardus fuit vivus & mortuus, & disaisitus fuit postquam Willielmus mare Transiit, & ipse dirationavit coram Regina inde est testis ejus Hugo de port & homines de toto Hundredo.* *Aldred* the Brother of *Ode* claims one * Rood of that Maner, and says that he held it the day that King F

Edward

Edvard was alive and dead, and was disseised after King *William* passed the Seas; and he recovered it before the Queen. *Hugo de Port* is Witness of it and the whole Hundred.

In *Domesday* Book thus.

Hantescire.

A *N.* LIII. *Terra* * *Willielmi* **arcuarii**, *in Sumburn Hund.* * Domesd. *f.* 48. *b. col.* 2.

Isdem Willielmus tenet Cuntune, Quinque Teini tenuerunt de Rege Edwardo & quo voluerunt ire * *potuerunt Tunc se defendebat pro* 4 *hidis & dimid. modo pro tribus Hidis, Terra est septem Carucarum, In dominio est una, &* 13 *villani &* 19 *Bordarii cum* 7 *Carucis, ibi molinum de* 20 *solid. &* 8 *acr. prati, tempore Regis Edwardi & post valuit quatuor lib. modo septem lib.* * *Id est*, they were not *Servi Dominici*, such as were affixed to the Maner or Service they were in.

B *Eldredus frater Ode* * *Calumniatur* **Unam Virgatam** *Terre de hoc Manerio & dicit se eam tenuisse die qua Rex Edwardus fuit vivus & & mortuus, &c.* as it is above. Yet notwithstanding this Claim, and his Recovery of this Land before the Queen, he recovered it not as his Propriety, but as Land which he had allowed him for his Service, for it appears under the 69th Title, that this *Eldred* or *Aldred* was one of the Kings Thanes or Servants, and had been one of King *Edwards*, and therefore this Claim makes nothing to his purpose. The Title and Entry is thus. * Ibidem.

C *Hantescire.*

N. LXIX. *Terra* **Tainorum** *Regis, in Bertune Hund.*

D *Ode* * *tenet de Rege Sudtune, &c.* * Ibidem. *f.* 46.

In Sumburn Hundr.

Eldredus * *frater Odonis Tenet* **Dimid. Hidam** *de Rege, ipse tenuit de Rege Edwardo, &* **tunc se defendebat** *pro dimid. Hida modo pro* **una virgata.** *Terra est unius Carucæ in Dominio dimid. cum uno villano & uno Bordario, & dimid. Caruca, & duabus acr. prati valet & valuit* 6 *solid.* It is clear from this Title that *Eldred* or *Aldred* the Brother of *Ode* or *Odo*, was Servant both to King *Edward* and King *William*, and that he had one Virgate of Land for his Service in *Sumburn* Hundred, which Virgate was doubtless the same that he claimed and recovered of *William* the Bowyer, lying within the Maner or Town of *Cuntune* in that Hundred also. * Ibidem, *f.* 50. *b. col.* 2.

E

Next, he says *Hugo de Port* * had his Claim allowed, *Hanc hidam calumniatur Hugo de Port dicens eam pertinere ad sua Maneria de Cerdeford & Eschetune & ibi eam tenuerunt sui antecessores, & hoc testatur totum Hundredum.* This Claim shall be Considered by and by: And the Reader is desired to observe with what partiality and design this piece only of the Record is cited, to abuse the People, when he shall come to this mark ☞ twice placed in the Margin. * *Jus Angl. ab antiquo*, p. 96.

F

A third is the * remarkable Tryal (as he calls it) between *William de Chornet*, and *Picot*. *In isto Hundredo & in isto Manerio tenet Picot 2. virgat. & dimidium, & istam Terram Calumniatur Willielmus de Chornet dicens pertinere ad Manerium de Cerdeford Feudum Hugonis de Port, per hæreditatem sui anteceſſoris, & de hoc suum Teſtimonium adduxit de melioribus & antiquis hominibus Totius Comitatus & Hundredi, & Picot Contradixit suum Teſtimonium de Villanis & vili plebe, & de præpoſitis qui * nolunt defendere per* **Sacramentum**, *aut per Dei* **Judicium**, *Quod ille Qui tenuit terram liber homo fuit, & potuit ire cum Terra Quo voluit, sed Teſtes Willielmi nolunt accipere legem niſi Regis E. uſque dum diſiniatur per Regem.* A

* *Fus Angl. ab antiquo*, p. 96, 97.

* In the Record it is *volunt*.

In that * Hundred, and in that Maner *Picot* holds two Roods and half of Land; that Land *William de Chornet* claims, saying, it belongs to the Maner of *Cerdeford*, of the Feud of *Hugo de Port* by the Inheritance of his Anceſtor, and of this produced his Teſtimony of the better and ancient of the whole County and Hundred, and *Picot* on the other ſide brought his Villains, and inferior People and Bayliffs, who will not defend by Oath, or by Gods Judgment, (which he * takes not to be the *Ordeal* but the *Battail*) that he who held the Land was a Freeman, and might go with it whether he would; * Here the County or Hundred Teſtifies, that the ſtreſs of *de Ghornets* Cauſe depends upon the Confeſſors Law, and ſo give the Title with him. B C

* Ibid. p. 97.

* Ibid. p. 98.

* Ibidem.

In *Domeſday* Book this Entry follows the Survey and Deſcription of the Maner of *Cerdeford*, which ſee here a little further at this mark ☞ in the Margin, and then referring to the Maner of *Cerdeford* in *Fordingbridge* Hundred, it is ſaid.

*In isto * Hundredo & in isto Manerio tenet Picot duas virgatas & dimid.* [*de Rege,* **Phitelet tenuit** *in* **Alodio de Rege Edwardo** *pro Manerio tunc & modo Geldabat pro duabus virgat. & dimid. Terra eſt dimid Caruc. & ibi eſt cum uno villano, & duobus Bordariis & 10 acr. prati.*] Then it follows, *Iſtam Terram Calumniatur Willielmus de Chernet dicens pertinere ad Manerium de Cerdeford Feudum Hugonis de Port per* **hereditatem** *ſui* **anteceſſoris**, *& de hoc ſuum Teſtimonium adduxit de melioribus & antiquis hominibus totius Comitatus, & Hundredi & Picot Contradixit ſuum Teſtimonium de Villanis & vili plebe & de præpoſitis, Qui volunt defendere per* **Sacramentum** *aut Dei* **Judicium** *Quod ille qui tenuit Terram liber homo fuit, & potuit ire cum Terra ſua quo voluit, ſed teſtes Willielmi nolunt accipere legem niſi Regis E. uſque dum diffiniatur per Regem valuit* 15 *ſol. & poſt* 8 *ſol. modo* 10 *ſol.* D E

* Domeſd. f. 44. b. col. 2. & Seld. Not. ad Eadm. f. 217. n. 10.

Obſerve all between theſe marks [ ] is left out in the Citation in *Fus Aglorum*, &c.

In that Hundred, and within the Precinct of that Maner *Picot* holds two Virgates and half of Land of the King. *Phitelet* held it in Propriety of King *Edward* for a Maner; Then and now it was Taxed for two Virgates and half, the Land is half a Carucate or Ploughland, and there it is, with one Villan, and two Bordars, and ten Acres of Meadow. F

That Land *William de Chernet* Claims, (he was Tenent to *Hugh de Port* of the Maner of *Cerdeford*) ſaying, it belongs to the Maner of *Cerdeford*,

Cerdeford, the Feud or Fee of *Hugh de Port*, by the * Poſſeſſion of his * Anteceſſor, and of this he brought his Teſtimony, of the beſt and ancient Men of the whole County and Hundred, and *Picot* contradicted their Teſtimony by Villains, Vile Plebeians, or the loweſt ſort of the People, and Bayliffs, or Managers of Villages or Maners, who offered to prove by * Oath, or by * Battle, that their Teſtimony was true; That is, that he which held the Land before *Picot*, was a Freeman, and might go with his Land whether he would; but the Witneſſes of *William* would not receive, or be urged upon any other Law than King *Edwards*, (which was their ſimple Teſtimony only in this caſe) until it were determined by the King. The Land was worth Fifteen Shillings *per Annum*, afterwards Eight, at that time Ten.

This Gentleman in his Citation omits theſe words, *Picot tenet de Rege, & Phitelet tenuit in Alodio de Rege Edwardo pro Manerio*; From whence, 'tis clear, that at the time of making the Survey *Picot* was in poſſeſſion of the Land, and that he held it of King *William*, and that his Anteceſſor, *Phitelet* which had it before him, held it in Propriety as a Maner of King *Edward*; and though there appears no Judgment given with *William de Chernet*, or againſt *Picot* in the Record, yet this confident Perſon makes a ſtrange deduction, which the words cannot poſſibly bear, that * the County or Hundred teſtifies, that the ſtreſs of *de Chernets* Cauſe depended upon the Confeſſors Law, and ſo gave the Title with him. Whereas the meaning of thoſe words, *Sed teſtes Willielmi nolunt accipere legem niſi Regis E.* is very clear, and altogether to another purpoſe, for the Witneſſes of *William* were urged to try the Title by Battle, which way of Trial * was brought in by the *Normans*, and not in uſe here before the Conqueſt, and therefore they would not proceed further than give their Teſtimony, nor uſe any other Law than that *uſque dum definiatur per Regem*, until the King ſhould define or appoint whether they ſhould or not; ſo that for ought what appears by the Record, *Picot* was left in Poſſeſſion, and the Title undetermined, until the King had declared by what Law, whether Teſtimony only, or Battle, the Trial was to proceed.

By his fourth and fifth Inſtance, he ſays, * 'tis evident, that King *William* did not ſo much as make a new Grant or Confirmation to Men, of what was theirs before, the old Title being ſufficiently firm: * Hence in *Amelbrice* Hundred in *Surrey*, *Tenuit Almaris ſine dono Regis, eo quod* Anteceſſor *ejus Almar tenuit*; *Almar* held without the Kings Grant, becauſe his Anteceſſor *Almar* held it. The true Entry of this Inſtance in *Domeſday* Book is thus.

Sudrie.

N. XIX. * *Terra Ricardi filii Giſleberti Comitis in Amelbridge Hund.*

Picot tenet de Ricardo in Ebſa dimid. Hid. quam tenuit Elmarus *ſine dono Regis, eo quod Anteceſſor ejus Elmar tenuit,* tenet nunc Picotus, *nunc valet V. ſolid.*

* See the words *hereditare, & hareditas* in the Gloſſary.
* See a little further at this mark ☞ in the Margin, how the Authors of *Arg. Antinorm* and *Jus Angl. ab antiquo*, impoſe upon, and abuſe their Readers; by not underſtanding the word Anteceſſor.
* See *per Sacramentum vel Dei Judicium defendere*, in the Gloſſary. The Confidence of the Author of *Jus Anglorum*, &c.
* *Jus Angl. ab antiquo*, p. 98. He underſtands not the Record he cites.
* *Seldens* Diſcourſe of Duel or ſingle Combate, Printed at *Lond.* 1616. It was left to King *William* to determine whether a Trial was to proceed by Battle or Teſtimony.
* *Jus Angl. ab antiquo*, p. 98, 99.
* Ibidem.
* Domeſd *f.* 35. *a. col.* 2.
Note how partially he cites this.

Surry.

N. XIX. *The Land of* Richard *Son of Earl* Gilbert *in* Amelebrige *Hundred.*

Picot holds of *Richard* half a Hide in *Ebsa* (now *Ebsham*) which *Elmar* held without the Kings Grant, because his Antecessor *Elmar* held it, now *Picot* holds it, and now it is worth Five Shillings. A

These *Elmars* both former and later were Invaders, or as we now call them Intruders, they had no Title from the King, and therefore this half Hide was granted to *Picot*, either immediately by the King to hold of *Richard*, or mediately by *Richard*, who was the *Tenent in Capite*, and held six Hides in this Maner of *Ebsa*. B He is otherwise called *Richard de Tonebridge*, and his Father was *Gilbert* Earl of *Brion* in *Normandy*, to whom the Conqueror granted *Tonebridge* in *Kent*, and three Miles round it every way. There were many of these Intruders or Invaders, but perhaps more in *Essex*, *Norfolk*, and *Suffolk*, than in any other Counties, for in these three there are in *Domesday* Book distinct Titles concerning Invasions, as in *Essex* number the 90 Title *Invasiones*, in *Norfolk* number 66 Title *de Invasionibus*, and *Suffolk* number 76 Title *de Invasionibus super Regem*; And under these Titles were entred such People as retained their Lands, or had possessed themselves of Land, without the Kings grant or knowledge. C

Domesday-Book.

His fifth Instance, but the second, by which he would prove, That Men held their Estates that they had before the Conquest, without any Grant or Confirmation from King *William*, is this; * In *Gloucestershire*, *Brictic tenet de Rege quatuor hidas in Lechamtone, & Geldant, ipse duas hidas tenuit tempore Regis Edwardi, & Ordric Tenuit alias duas, Rex Willielmus utramque eidem Brictric Concessit pergens in Normaniam.* D

* *Jun Angl. ab antiquo*, p. 99.

Brictric * holds of the King four Hides in *Lechametone*, and they pay a Quit-Rent, he held two Hides in the time of King *Edward*, and *Ordric* the other two, King *William* when he went into *Normandy*, granted them all to *Brictric*; * so that *Brictric* enjoyed the other two, not contained in the Kings Grant, upon his prior Title. E

* Ibidem.

* Ibidem.

In *Domesday* Book thus.

Glowcestre-scire.

N. LXVIII. *Terra* Tainorum *Regis:* F

In Gitenham Hund.

Brictric * *tenet de Rege quatuor hidas*, and so on as above; We find by this Title that *Brictric* was one of the Kings Servants, and held two Hides as such, and he held them of King *Edward* upon the

* Domesd. *f.* 170. *b. col.* 1.

the ſame Account; King *William* continued him in his Service, and to him the Land he held for that Service, and then gave him two Hides more which *Ordric* held of King *Edward*, who was doubtleſs a Servant to him, and *Brictric* afterwards performed his Service, for which he had the Land. See more of theſe Servants, Miniſters, or Tains and their Tainlands hereafter in this Anſwer, where the Readers patience will be exerciſed with more of this ignorant, confident, ſelf-conceited Mans wretched abuſing, partial citing, and falſe applying of Records and Hiſtory.

A

And further, that it is not probable there was any ſuch indulgence uſed toward the *Saxons*, as the imaginary and forged favour towards *Sharnborn*, I will produce two Inſtances. Firſt, of *Wulketule* Abbat of *Croyland*, and the Monks of the ſame Monaſtery, who were Diſſeiſed of the Priory of *Spalding* in *Lincolnſhire* and the Lands belonging to it. This Priory was founded by (5.) *Thorold (Vicecomes Lincolniæ)* in the year 1052. he gave to it the Maner of *Spalding*, with all the Lands, Rents, and Services belonging to it, and the Stock upon the Land, and contrived his Maner Houſe into an Habitation for Monks, to eaſe and relieve the Abby of *Croyland*, that was then too full and over-burthened with them, and carried with him ſix Monks from *Croyland* and placed them there; who there continued with a Prior until **Ivo** (6.) **Talbois** Earl of *Anjou* and Lord of *Holland* that came over with the Conqueror, turned out the Prior and Monks, and Diſſeiſed the Abbat and Convent of *Croyland* of their Cell, killed and maimed their Cattel, Sheep and Oxen, beat, wounded, and ſometimes killed their Servants till they left it, and ſent to *Natalis* Abbat of St. *Nicholas* in *Anjou*, deſiring him to ſend him five Monks and a Prior, and he would provide a Cell for them, with ſufficient Maintenance; *Veniunt* (ſaith *Ingulph*) *Andegavenſes Monachi, & Cellam noſtram occupant, alienique coram nobis terras noſtras Devorant. Et Domino Wulketulo Abbate, ſuper hoc in* **Curia Regis** *Calumniam movente, omnes* **Normanni** *mutuo* **Confederati**, *prædas & preſſuras, cædes & cæteras injurias univerſas* **Ivonis Talbois** *contra Croylandenſes juſtificant.* The Monks of *Anjou* came, and uſurped the Cell of *Croyland*, and Strangers devoured their Lands before their Faces; Of this *Wulketule* the Abbat complained, and put in his Claim for the Cell in the Kings Court, all the *Normans* confederated together, and juſtified the Rapine, Slaughters, and other Injuries of *Ivo Talbois* againſt thoſe of *Croyland*, and afterwards King *William* (7.) confirmed **Ivo** his ſettlement upon the *Anjou* Monks. What can it be preſumed, that the *Croyland* Abbat and Monks had done againſt *William*, to have the Cell taken from them? Nay, What had the ſix Monks of *Spalding* done, to be turned out of it? *Ivo* had ſome ſort of Title to this Maner by his Wife *Lucia*, (of whom more by and by) and perhaps he ſent for ſuch hungry Monks out of his own Country, as would be contented with half, or a third, or fourth part of it, and kept the reſt to himſelf.

B C D E F

The *Saxons* received no favour from the Conqueror.

(5.) *Ingulph. Hiſtor. f.* 510. *b. n.* 10. 20.

The Caſe of the Priory of *Spalding*.

(6.) Ibid. *f.* 513. *a. n.* 40.

Ivo Talbois ſeiſeth it, turns out the *Engliſh*, and puts in Monks of *Anjou*.

The Abbat of *Croyland* claims the Priory in the Kings Court.

(7.) *Monaſt. Angl. Vol.* 1. *f.* 307. *col.* 1. *n.* 30.

Ivo Talbois is by the Conqueror confirmed in his Poſſeſſion.

The ſecond Inſtance is in *Aſa*, a *Saxon* or *Daniſh* Lady. *De* (8.) *omni Terra* **Aſe** *Teſtantur Quod Roberti Malet debet eſſe, eo quod ipſa habuit terram ſuam ſeparatam & liberam a Dominatu & poteſtate* **Bernulfi** *Mariti ſui, etiam cum ſimul eſſent, ita ut ipſe de ea, nec donatione,*

(8.) Domeſd. *f.* 373. *a. col.* 1, 2. *Tit. Clamores in Eurwicſcire.*

Asa, a Woman had all her Lands seised, though it doth not appear she had done any thing against the Conqueror.

nec venditione, facere nec forisfacere posset; post eorum vero separationem, ipsa cum omnis terra sua recessit, & eam ut domina possedit: **Homines** *autem de* **Comitatu**, *tam de illa, quam de Tota terra ejus,* **Willielmum Malet** *saisitum viderunt, donec invasum est castellum. Hoc attestentur, de omni terra* **Asæ** *quam habuit in* **Eurwicscire.** Concerning all the Land of *Asa* the Men of the County do Witness, that it ought to be *Robert Mallets*, because she held it separate and free from the power of her Husband *Bernulph*, yea, when they were together, so that he could neither dispose of, or forfeit it, but after their parting or separation she went off with all her Land, and possessed it. But the Men of the County, save *William Mallet*, seized of her, and all her Land before the Invasion of the Castle, (that is, the Castle of *York*) this they witness concerning all the Land of *Asa*, which she had in *Yorkshire*. *Mallet* was Governor of *York*, and *Vicecomes* of *Yorkshire*, (9.) and when the *Danes* took *York* and the Castle, he, his Wife, and two Children, and few others had their Lives saved with great difficulty. What had this Woman done, to be made Prisoner, and have her Land seized? she fought not against the Conqueror, but in all probability behaved her self peaceably. What did far the greatest part of all the remote Counties in *England*? they neither fought, nor advised against *William*, yet had their Lands taken away.

A

B

(9.) *Sim. Dunelm. col.* 198. *n.* 60. A. D. 1069.

Next he goes on to the saying of Judge (1.) *Shardelow*, *Le Conqueror ne vient pas, &c.* The Conqueror came not to oust those who had a Right Possession, but to dispossess those, who wrongfully had enjoyed any Land to the disherison of the Crown. This we have heard of before, in Mr. *Petit's* Preface (2.) to the *Ancient Rights, &c.* and if the Reader thinks there is any weight in that wonderful saying, he may receive satisfaction in the Answer to that Book, *f.* 13. A.

C

(1.) *Arg. Antinorm. p.* 63.

(2.) *Pag.* 27.

D

(3.) *Arg. Antinorm. p.* 64.
(4.) *Placit. Coram. Rege Hill.* 14 *Ric.* 2. *Rot.* 50. *Warw.*

The Suit between the King and the Prior of *Coventry*.

After this he brings a (3.) Record of a memorable Suit between the King and the Prior of *Coventry* in the Fourteenth of (4.) *Rich.* 2. the King demanding a yearly Pension for one of his Clerks, as holding of him by Barony; The Prior denies he held any thing of the King by Barony, and pleads he held the Priory upon the foundation of *Leofric*, some time Earl of *Chester*, founded in the time of Saint *Edward* King of *England*, recites the Charter, and then proceeds in his Plea upon a Title of Descent. The Author of *Jus Anglorum ab antiquo* (5.) urgeth the same Record, and demands a Categorical Answer to it. They both, or one of them, had it out of the Monasticon, *Vol.* 1. *f.* 305. *col.* 1. *n.* 20.

E

(5.) In his Additions, *p.* 15.

(6.) *Jus Angl. ab antiq. p.* 13. in his Additions.

In placito (6.) *inter* **Regem** *&* **Priorem** *de* **Coventre** *de annua pensione uni clericorum Regis, ratione novæ Creationis ejusdem* **Prioris** *quousque, &c. Prior venit & defendit vim & injuriam & quicquid est in contemptu Domini Regis, &c. non cognovit Ecclesiam suam beatæ* **Mariæ** *de* **Coventre** *fore Ecclesiam Cathedralem, nec ipsum* **Priorem** *tenere aliquid de Domino Rege per Baroniam prout pro Domino Rege in narratione sua proponitur, & dicit quod tenet* **Priorat**um *prædictum ex fundatione cujusdam* **Leofrici** *quondam* **Comitis** *Cestriæ, qui* **Priorat**um *prædictum fundavit Tempore Sancti Edwardi dudum Regis Angliæ per cartam in hæc verba.*

F

Anno

Anno Dominicæ incarnationis 1043. *ego Leofricus Comes Ceſtriæ, &c.* and then ſets forth the Foundation, and that he gave unto it in ſeveral Counties, twenty four Towns, *&c.* there named, and then ſays *cum hiis omnibus Rex Edwardus & ego libertates huic Monaſterio dedimus; ita ut Abbas ejuſdem loci, Regi Angliæ ſit ſubjectus*; and ſo proceeds to the ſecond part of his Plea and Title by Deſcent. The Priors Plea.

A (7.) *Ibidem recitatur Charta ejuſdem regis Edwardi, quas Donationes & Conceſſiones diverſi alii Reges confirmaverunt, & dicit quod poſtea per proceſſum temporis nomen* Abbatie *prædictæ, divertebatur in nomen* Prioratus, *eo quod Leofricus ad tunc Abbas ibidem creatus fuit in Epiſcopum Ceſtriæ, & ordinavit per aſſenſum Monachorum ibidem quod Abbatia prædicta, ex tunc foret Prioratus, & quod ſuperiores ejuſdem Eccleſiæ, forent priores ſucceſſive in perpetuum, & dicit quod de ipſo Leofrico, quia obiit ſine Hærede, de corpore ſuo deſcendente, Advocatio* B *Eccleſiæ Prædictæ, tempore Willielmi Conqueſtoris Angliæ, cuidam Hugoni Comiti Ceſtriæ ut Conſanguineo & hæredi ipſius Leofrici, viz. filio Erminilde ſororis ejuſdem Leofrici, & de ipſo Hugone, cuidam Ricardo, ut filio & hæredi, & de ipſo Richardo cuidam Ranulpho ut conſanguineo & hæredi, viz. filio Matildis ſororis prædicti Hugonis, & de ipſo Ranulpho, cuidam Ranulpho, ut filio & hæredi, &c.* The (8.) Prior further pleads, that the Advowſon of the Priory went along with the Deſcendents, until at length it was given, and came into the C hands of King *Henry* the Son of King *John*, and his Heirs for ever, *&c. Prædictus* Prior *ſine die.* (7.) Ibid. p. 16. *Arg. Antinorm. p.* 65. (8.) Ibid. p. 17, and *p.* 66.

From this great Record (as he calls it) our Argumentator ſays it is clear and evident. (9.) *Arg. Antinorm. p.* 67.

Firſt, That *Leofric* was Earl of * *Cheſter* in the Reign of King *Edward* the Confeſſor, and that he dying without Iſſue, the Earl- D dom of *Cheſter* and Right of Advowſon of the Priory of *Coventry* in the time of *William* the Conqueror, deſcended to *Hugh* Earl of *Cheſter*, as his Couſin, and Heir to *Leofric*, as being the Son of *Erminild* Siſter of *Leofric*; and that from *Hugh* deſcended *Richard* his Son and Heir, and from *Richard* deſcended *Ranulf* as Couſin and Heir, that is the Son of *Maud* Siſter of *Hugh*, and from that *Ranulph* another *Ranulph* his Son and Heir. From the Priors Plea he obſerves (as he ſays) three evident things.

E Secondly, That (1.) if *William* when he came in, made an abſolute Conqueſt, this Title had been impoſſible to have been maintained. (1.) Ibidem.

Thirdly, (2.) That the Plea of the Prior was allowed; for the Record ſaith, *Prædictus Prior ſine die*, and the Advowſon aforeſaid did deſcend. And here he adds, That 'tis obſervable, that Judgment being given upon ſolemn Debate and Trial, neither the Judges F nor Kings Council, ſo many hundred years ago, as in the Age of *Richard* the Second, knew any thing of this new received Notion of a new Conqueſt. (2.) Ibid. p. 67.

* He was Earl of *Mercia*, but was called ſometimes Earl of *Cheſter*, ſometimes Earl of *Leiceſter*, becauſe of his often Reſidence at thoſe Places.

This

Both parts of the Prior's Plea false.

This Plea consists of two parts; First, That the Prior of *Coventry* held nothing by Barony; Secondly, A Title of Right of Advowson of the Priory by descent. And I do affirm they were both false.

The Prior of *Coventry* was a Baron.

(3.) *Cl.* 11 *Ric.* 2. *m.* 13. *Dors.*

(4.) *Seld. Tit. Hon. f.* 60.

(5.) Ibidem, *f.* 604, 605, 606. 607.

First, The Prior of *Coventry* as Prior was a Baron, and summoned to Parliament as such, *Selden Titles of Hon. f.* 602. in (3.) the Eleventh of *Richard* the Second, but three years before this Suit, and so continued until the time of the Dissolutions of Monasteries, and no Abbats or Priors after that time came to Parliament, (4.) but such as held by Barony; and from this Attendance he might have been excused, (5.) if he had pleaded in Parliament, and could have made it appear he held not by Barony, as some others did, that thought it a burthen to them and their Houses. A

* *Monast. Angl. vol.* 1. *f.* 304. *col.* 1. *n.* 10.

(6.) *Rot. Cl.* 13. *Hen.* 3. *m.* 3.

(7.) *Monast. Angl. vol.* 1. *f.* 305. *col.* 1. *n.* 50.

(8.) *Petyt's* Ancient Rights, *&c. p.* 178. in *Append.*

The twenty four Maners or Towns, and * one half of the Town of *Coventry*, given by *Leofric* to this Priory, were undoubtedly a Barons Estate, and therefore this as well as all Bishopricks, and other Abbies and Priories, was most certainly put under the Tenure of Baronage by the Conqueror; and it appears upon Record, (6.) that in the Thirteenth of *Henry* the Third the Prior Compounded with, or Fined to him, for the Service of ten Knights Fees at 40 *s.* every Fee in the Counties of *Warwick* and *Leicester* only, whereas some of the Maners or Towns *Leofric* (7.) gave to it, were in *Glouceſterſhire* and *Worceſterſhire*, in *Hampſhire* and *Cheſhire*; which notwithstanding in the Seventeenth of *Edward* the Third, the (8.) Prior of *Coventry* put in such a false Plea as this, That he and his Predecessors held all their Lands and Tenements, by the Service of two Knights Fees only, and that the King nor his Progenitors were ever seised of more, or other Services by the Prior or his Predecessors, by Fine, or Service by the Body of Men. B C

Leofric had Issue, his Son and Heir Earl *Algar*.

(9.) *Dugd. Baron. Tit.* Earl of *Mercia* before the Conquest, and he had Issue, Earl *Edwin* and Earl *Morchar*.

Secondly, I affirm the Title by Descent to be utterly false, for this very Earl *Leofric*, the Founder of this Priory, had Issue, *Algar* Earl of *East-Angles* first, then after his Fathers death Earl of (9.) *Mercia*, and *Algar* had two Sons, (9.) *Edwin* Earl of *Mercia* after his death, and *Morchar* Earl of *Northumberland*, both living, and had their Estates and Lands taken from them after the Conquest, and a Daughter named *Lucia* Married to *Ivo Talboys*, with whom King *William* gave him all her Brothers Lands in *Holland* in *Lincolnshire*. D

(1.) *Ingulph.* Histor. *Croyland, f.* 510. *b. n.* 40.

(2.) Ibidem, *n.* 50.

Anno Domini 1053. *Godwinus comes buccella gustata suffocatus interiit, Comitatus West-Saxoniæ Haroldo filio suo datus est, & Comitatus Haraldi (id est) East-Saxoniæ* Algaro (1.) *filio* Leofrici *Leicestrensis Comitis est donatus.* E

Anno Domini 1057. *Illustrissimus & optimus* (2.) *Comes Leicestriæ* Leofricus *obiit, & apud* Cobenteriam *Monasterium suum, Quod Construxerat, & maximis donariis, & privilegiis plurimum ditaverat, sepultus requiescit.* F

(3.) Ibid. *f.* 511. *a. n.* 10, 20. *Ingulph* was installed Abbat of *Croyland*, Anno Dom. 1076.

Anno Domini 1059. *Strenuissimus Comes* (3.) Algarus, *invictus, & populo terræ, sincerissimo affectu amatus obiit, &* Cobenterie *juxta patrem positus requiescit inhumatus.* Relictis Tribus liberis, *duobus filiis videlicet,* Edwino & Morchario, *& unica filia quæ nunc superest, Comitissa* Lucia.

Ivoni

Ivoni Talbois post necem duorum fratrum & Comitum, **Edwini**, & **Morcarii** (4.) **Luciam** *eorum sororem cum omnibus terris & tenementis* (which they had left) *ad eosdem pertinentibus, inclytus* **Rex Willielmus** *dederat in uxorem, quæ in* **Hoylandia** *potissime jacebant, &c.*

(4.) *Ibidem, f. 513. d. lin. 2.*

A So much for *Leofric* and his Issue, now let us see what and who *Hugh* Earl of *Chester* was, that is said in this Plea to have been Cousin by Blood, and Heir to this Earl *Leofric*, which is as false as that he died without Issue.

Hugh Earl of *Chester* was not Cousin by Blood, or Heir to *Leofric.*

The first Earl of *Chester* after the Conquest was (5.) *Gherbod* a *Fleming*, who being sent for into *Flanders*, and having obtained leave of the King to go thither, he there fell into his Enemies hands, and was kept there, by a long and hard Imprisonment.

(5.) *Ordel. Vital. f. 522. A. Gherbode a Fleming* first Earl of *Chester* after the Conquest.

B In whose absence King *William* gave this Earldom to (6.) *Hugh de Abrincis*, a Person of great note amongst the *Normans*, an expert Soldier, and his Sisters (7.) Son; his Father was (8.) *Richard de Abrincis*, Sirnamed *Goz*, and he was Son to (9.) *Tursten* surnamed *Goz*, who (9.) was Son to *Ansfrid* the *Dane.*

(6.) *Ibidem.* The Genealogy of the Earl of *Chester.* (7.) *Hen. de Knighton, col. 2376. n. 60.* (8.) *Order. vit. ut supra.* (9) *Gemet. lib. 7. c 6.*

C This Earl **Hugh** Married (1.) **Ermentrude** Daughter to *Hugh* Earl of *Clermont* in *Beauvois* in *France*, and by her had *Richard* Earl of *Chester*, who was (2.) drowned, having (3.) no Children, with *William* Son to King *Henry* the First, in a Shipwrack coming out of *Normandy.*

(1.) (2.) (3.) *Order. vital. f. 522. B. Gemet. lib. 8. c. 38.*

To this *Richard* succeeded *Ranulph de Bricasard Vicecomes Baiocensis*, Viscount of *Bayeux* in *Normandy*, his Cousin German, and Heir, by *Maud* his Fathers Sister: and to him succeeded *Ranulph* his Son, called *de Gernons, &c.*

(4.) *Order. vit. f. 851. A. 871. A. Gemet. ut supra.*

D Having considered the Title of Descent in this great Record, his first (5.) clear and evident Deduction from it, That *Leofric* died without Issue, and that *Hugh* Earl of *Chester* was his Cousin and next Heir, as being the Son of *Ermenild* the Sister of *Leofric*, appears to be false.

(5.) *Arg. Antinorml p. 67.*

E Secondly, It appears that the Title of the Advowson of the Priory, could not have been maintained by this Descent, if it had ever been well examined and throughly debated.

Thirdly, If upon solemn Debate and Trial **Judgment** was given for the **Prior**, (as by the words *prædictus Prior sine die*, it appears it was) 'tis certain the Judges and Kings Council understood and knew as little of this Descent and Tenure by Barony, as they did of the absolute Conquest.

F

Further, Our Author gives (6.) some few Instances of the very many he could (as he says) out of *Domesday* Book, to satisfie his Reader, that there were many Proprietors of *Englishmen*, who had their Free-hold Estates upon Titles Paramount to any of the Conquerors Donation; and these he takes (as he says) from the industrious

(6.) *Arg. Antinorm. p. 69.*

strious and worthy Gentleman Mr. *Atwood* in his Book Entituled *Jus Anglorum ab antiquo*, where in his * excellent History of the Conquest amongst others, he hath these following.

* *Ibid.* is exactly like his own.

(7.) *Arg. Antinorm.* p. 69. *Jus Anglor.* p. 80.

(7) *Surrey.*

Hugo de Port (7) was a very great Proprietor, as may be found under the Title, *Terra Hugonis de Port.* Many Maners he had: and as appears in *Hampshire* he had at least two Maners, *Cerdeford* and *Eschetune*, from his Ancestors, before *Williams* entrance. A

The disingenuous and false practices of this Writer, and his Worthy Friend.

These Gentlemen never cite any thing particularly or exactly out of *Domesday*, so as it is a great trouble to trace them: *Hugo de Port* had no Title or Land in *Surrey*, as is evident from *Domesday* Book in that County, but the Title he mentions is to be found in *Hampshire*, where he held much Land of the King, and many Maners, amongst the rest these two above mentioned, which are there entred as here it followeth. B

(8.) Domesd. f. 44. b. col. 2.

(8.) *Hantescire.*

Terra Hugonis de Porth, in Fordingbridge Hund.

☞.

Hugo de Port tenet **Cerdeford.** *Willielmus de eo,* **duo lib. hom.** *in Alodium Tenuerunt pro duobus Man. de R. E. Tunc & nunc geld. pro 5 Hid. Terra est 4 Caru. in Dominio sunt 2 Caru. & 20 Bord. & 4 Servi cum 1 Caru. & quater 20 acr. prati & 11 T. R. E. & nunc val. 4 lib. cum Recep. C. sol.* C

(9.) See *Glossary.*

* That is *Cerdeford* and *Eschetune.*

Hugo de Port holds *Cerdeford*, *William* holds it of him, two Freemen held it in (9.) *Alodium* for * two Maners of King *Edward*, then and now it was and is taxed for five Hides, the Lands contain four Carucates, there are two in Demeasns, and twenty Bordars, and four Servants, with one Carucate, and fourscore and eleven Acres of Meadow in the time of King *Edward*, and now it is worth Four Pounds, when *Hugo* received it, it was worth an Hundred Shillings. Here is no Title paramont to the Conquerors Donation, for *Hugh de Port* held it not before that time, but two Freemen held it of King *Edward.* D

The false inference of the Author of *Jus Anglorum ab antiquo.*

(1.) Domesd. f. 48 a. col. 1. E

(1.) *Hantescire.*

Terra Gilberti de Breteville.

* *Jus Angl. ab antiquo*, p. 96. ☞.

Gilbertus de Breteville **Ten. de Rege** *unam Hidam in Sumburn Hund. Hanc* **Alnodus Tenuit** *de R. E. &c.* * *Hanc Hidam* **Calumniatur** *Hugo de Port dicens eam pertinere ad sua Maneria* **Cerdeford** *&* **Eschetune**, *& ibi eam tenuerunt sui* **antecessores**, *& Hoc Testatur Totum Hund.* F

Gilbert de Berteville holds of the King one Hide in *Sumburn* Hundred, *Arnold* held this Hide of King *Edward*, *&c.* *Hugh de Port* claims this Hide, and says it belongs to his Maners of *Cerdeford* and *Eschetune*, and that his Antecessors held it there; This the whole Hundred doth Testifie.

Our

Our Author and his induſtrious and worthy Gentleman lay hold of the word Anteceſſors or Anceſtors only, and impoſe upon their Readers in the meaning of it, and uſing it as if they were Anceſtors in Blood, and ſuch as *Hugh de Port* was Heir unto; but ſuch they were not, for we ſee in the firſt entry of *Cerdeford*, that *Hugh de Port* held it after the Conqueſt, and two Freemen before the Conqueſt of King *Edward* for two Maners, ſo that Anceſtors here were only Anteceſſors, or Predeceſſors in Poſſeſſion, and ſuch as held the Maners before *Hugh* had them, and not Anceſtors in Blood, from whom they deſcended to *Hugh*. See more in the *Gloſſary* upon the word, for the confirmation of this.

Anteceſſors in *Domeſday* are only Predeceſſors in Poſſeſſion, not Kindred or Anceſtors in Blood.

His ſecond Inſtance, (2.) the words theſe. The Earl of *Moreton* a very powerful Prince, as I may call him, held *Eſtreham* in *Tenrige* Hundred in the time of King *Edward*, he enjoyed ſeveral other great Poſſeſſions of the gift of *William*. I doubt not indeed but he was a *Norman* born, yet he was here before the entrance of the *Normans*, and might, not improbably be in favour with King *Edward* the Confeſſor, who was all *Frenchified*; he to be ſure had ſome Lands in *England*, which he enjoyed not from *Williams* Diviſion: Fine Shuffle! he was half Brother to the Conqueror, and had in *England* of his Donation * Seven hundred ninety three Maners, whereof this was one, he was Earl of *Moreton* in *Normandy*, and *Cornwall* in *England*. The true Entry of this Town or Maner in (3.) *Domeſday* Book is as followeth.

(2.) *Antinorm.* p. 70. *Fus Anglor.* p. 81. In the Margin of this Book, thus, *Ipſe Comes Tenuit Eſtreham, T. R. E.*

* *Domeſd.* in ſeveral Counties.

(3.) *Fol.* 34. *a. col.* 2.

(3.) *Sudrie.*

Terra Comitis Moreton.

Ipſe Comes ten. **Eſtreham** *T. R. E. ſe defend. pro* 5 *hid. nunc pro Nicholo, Herald. tenuit* 1 *hid. & dim. Canonici de Waltham* 1 *hid. & dim. tres ſochi tenuer.* 11 *hid. & quo voluerunt cum eis ire potuer. Tract. eſt* 11 *Car. ibi ſunt tres villi & 3 Bordar. cum* 2 *Car. & dim. T. R. E. val.* 30 *ſol. & poſt* 15 *nunc* 43 *ſol.*

Surrey.

The Land of the Earl of *Moreton.*

The Earl held *Eſtreham* in the time of King *Edward*, it was Taxed at the rate of five Hides, now nothing; *Herald* held one Hide and an half, the Canons of *Waltham* one Hide and an half, three *Sochmen* held two Hides, and might go with them whither they would, (that is, where ever they were themſelves, they might diſpoſe of their Lands) the Land is two Carucates, there are three Villanes, and three Borders, with two Carucates and an half; in the time of King *Edward*, it was worth Thirty Shillings, afterwards Fifteen, now Forty three Shillings.

Ipſe Comes **Ten.** *Eſtreham*, **Ten.** is here put for *Tenet*, not *Tenuit* as in their Margins, for *Herald Tenuit*, the Canons of *Waltham* and three *Sochmen Tenuerunt*, and therefore the Earl according to the Title, that they were his Lands, was the preſent Poſſeſſor of *Eſtreham*;

ham; which was before the Conqueſt poſſeſſed by *Herald*, the Cannons of *Waltham* Abby, whereof he was Founder, and three *Sochmen*: and further they joyn the three Letters *T. R. E.* to the firſt Sentence, which belong to the ſecond, as is clear by the word *modo*, that is a Relative to them. Here cannot be the leaſt colour of any Title paramont to the Donation of the Conqueror.

Tempore Regis Edwardi.

(4.) *Antinorm.* p. 71. *Fus Angl.* p. 83.

The Third Inſtance is in theſe (4.) words. A

Hampſhire.

Ralph Mortimer held ſeveral Poſſeſſions, ſome of which he had, **Jure hereditario**, from before the Reputed Conqueſt, **Ipſe Radulphus tenet Ordie.** This Maner *T. R. E. Extra Eccleſiam emptum fuit, eo pacto, & Conventione, ut poſt tertium hæredem, cum omni* **pecunia**, *Manerium Eccleſia Sancti Petri recuperet, nunc qui tenet Radulphus eſt tertius hæres.* B

(5.) *Fol.* 46. *b. Col.* 2.

The true Entry of this Maner in *Domeſday* (5.) Book is as followeth.

(5.) *Hanteſcire.*

Terra Radulfi de Mortemer. C

Radulphus de Mortemer ten. Ordie. **Cheping tenuit de Rege** *E. Tunc & modo ſe defend. pro una hida Terra eſt 5 Car. In Dominio ſunt 3 Car. & unus villanus, & 27 Bord. cum 2 Car. ibi Eccleſia & 24 Servi & 3 Molini de 60 ſolid. & 5 acr. prati pro herbagio 40 ſol. & 8 Hage in Wincheſtre de 65 ſol. & 4 Den. T. R. E. valab. 25 lib. & poſt 10 lib. modo 15 lib.*

Hoc Manerium T. R. E. extra Eccleſiam emptum fuit **eo pacto & Conventione** *ut poſt tertium* **heredem** *cum omni pecunia, M. Eccleſia Sancti Petri de Epiſcopatu reciperet, Nunc qui tenet Radulfus eſt tertius hæres.* D

Hampſhire.

The Land of *Ralph de Mortemer.*

Ralph de Mortemer holds *Ordie. Cheping* held it of King *Edward*, then and now it was Rated or Taxed at one Hide, the Land is five Carucates, in Demeaſn there are three Carucates, and one Villan, and ſeven and twenty Bordars, with two Carucates; there is a Church, and twenty four Servants, and three Mills, of Sixty Shillings, and five Acres of Meadow; For *Herbage* Forty Shillings, and eight Houſes in *Wincheſter* of Sixty five Shillings and four Pence. In the time of King *Edward* it was worth Twenty five Pounds, afterward Ten Pounds, now Fifteen Pounds. E

Theſe Houſes belonged to this Maner. F

This Maner in the time of King *Edward* was bought from the Church, on Condition, that after the third Heir, the Church of St. *Peter* ſhould receive the Maner from the Biſhoprick with all the Stock; **Ralph** that now holds it, is the third Heir.

This

This Maner in all probability King *Edward* had ſold out for three Lives, and then gave it to the Biſhoprick of *Wincheſter*, to hold for that term, and after the expiration of thoſe Lives, to his Church of St. *Peter* at *Weſtminſter*. But whether it was ſo or not; by the word Heir here is only meant and intended a Succeſſor, not an Heir by Blood or Affinity, and by thoſe words **Ralph** wꝫch now holds it, is the third Heir, can only be ſo underſtood as his was the third Life, or that he was the third Succeſſor.

A

For **Cheping** the *Saxon* held it before the **Conqueſt** of King *Edward*, and **Wꝫtemer** the **Norman** held it after the Conqueſt. This **Cheping** held ſeveral Lands of the [illegible] and Biſhop of *Wincheſter* in this County; Of King *Edward* he held **Bertune**, **Ordie**, **Sirelei**, **Botelie**, **Chenol**, **Stradſelle**, **Bedeſlei**, and **Candowꝫe**; He held in **Swantune** one Hide of the Biſhop and Monks of *Wincheſter*, which was granted him for his Life only, and then to return to the Church; He alſo held **Otreburne** of the Biſhoprick of *Wincheſter*, *Non potuit recedere ab Eccleſia*; He held of Earl **Herald Silceſtre** in *Alodium*. All theſe Towns, Maners, or Lands, are found to be under the Title of **Terra Radulfi** *de* **Wꝫtemer** in *Hampſhire*, and likewiſe the Lands of ſeveral other Men before the Conqueſt. **Ezi** *tenuit, T. R. E.* another *Ordie, Elwinus Tenuit in Alodium de Rege E. 2. hidas in Nortune. Edric tenuit Anne T. R. E.* Theſe are all under the ſame Title, and were **Wꝫtemers** Lands after the Conqueſt; from whence it is more than evident, that he was only **Succeſſoꝫ**, which is expreſſed here by the word **Heir**, and that he held his Lands by the **Donation** of the Conqueror, and no otherwiſe.

B

C

The (6.) words of his Fourth Inſtance are theſe. (6.) *Antinorm.* p. 71. *Jus Angl.* p 86.

D

Dorſetſhire.

(7.) *Terra* **Tainoꝫum** *Regis, in Jus Angl. &c.* (7.) Domeſd. *f.* 84. *a.* col 1.

Ten Thains hold *Chimedecome ipſi Tenuerunt T. R. E. pro* 1 *Manerio.*

These Thains were the Kings Ordinary Miniſters or Servants, which he employed in his Country Affairs and Buſineſs, in managing and looking after his Maners and Lands, his Foreſts, his Fiſhings, *&c.* his Deer, his Beeves, his Dayries, Cows, Horſes, Sheep, Hogs, Corn in the Granaries, *&c.* ſome others were employed in Hunting, Hawking, *&c.* ſome were Bowyers, Carpenters, and other Mechanicks and Artificers; and many were ſmall Officers in the Court, thoſe eſpecially that had Lands given them, which they nor their **Fathers** held in the time of *Edward* the Confeſſor, others in Cities and great Towns. Now it was moſt neceſſary for him to employ the *Saxons* in theſe Services, for the *Normans* knew not the Country, nor underſtood the Lands, and could not perform the moſt of them; And it was then the common practice of this and other Nations, inſtead of Sallaries or Wages, not only for Princes, but alſo other great Men, and Gentlemen of Eſtates, to aſſign Lands to their Servants, and they made the beſt of them, by letting them out to

E

F

Drudging People, either for Mony, or some part of the Product of them, there being then but little Mony, and Trade not much regarded, Land was the only thing that made all Payments, and gave Credit.

The Crown Lands without doubt he received with the Stock upon them, and his Court (as the use was then) was to be supplied with Venison, Wild Boars, Hogs, and such other Provisions as the Woods and Forests afforded, in their Seasons, *&c.* and therefore could not find out more proper Servants, nor more fit for his Business, than such as had been employed by King *Edward*; and though the same Persons did [illegible] the same Lands in the Conquerors time, that they did in his, yet that the Tenure was the same, and as easie as in King *Edwards* days, no Man, I think, that hath once read this Answer, will readily believe it. 'Tis most certain they had a new Landlord, that they were his Servants and Ministers, that he gave them their Employments, and also the Lands they possessed in consideration of them; so that it were not possible for these sort of Men to have a Title paramount to the Donation of the Conqueror, and we may reasonably conceive that their Tenures under him were much more rigid and hard, than they were under King *Edward*, and that though they were so, yet they thought it at that time, a very great favour and happiness to them, that they were continued in their Places. That the **Thanes**, the **Taini & Servientes Regis**, contained under the Titles of **Terra Tainorum**, or **Servientium Regis**, in almost every County in **Domesday Book**, were the Kings **Ministerial Officers**, and **Servants** of less Note in Court, Cities, great Towns, and the Country, let our Author see his (8.) great and ever famous Mr. *Selden*, for whose Memory he hath the highest Regards, in his Notes upon *Eadmer*, *fol.* 170. *n.* 20, 30, 40, 50. and here in *Appendice*, *N.* 10.

(8.) *Antinorm.* P. 37.

His Fifth (9.) Instance is of two Kings Thains in *Staffordshire*, but as in *Dorsetshire* above, so here he hath concealed the Title, under which they were contained, though his Industrious Friend (by what chance I know not) did not in these two Counties.

(9.) *Ibidem*, P. 71.

Alric holds *Stagrisgeshowe* } *Ipsi has terras tenuerunt, T. R. E.* Four-
Aswold holds *Chochesdene* } teen more hold Titles Prior to King *Williams.*

True Entry in (1.) *Domesday-Book.*

(1.) *Fol.* 250. *b. Col.* 2.

Statfordscyre.

Tit. XVII. *Terra* **Chenwin**, *& aliorum* **Tainorum** *Regis.*

Chenwin tenet **de Rege** *tres hidas in Codeshall. ipse ten. T. R. E. &c.*

Alric Ten. **Stagrisgeshowe**, *&c.* } *Ipsi has terras tenuerunt, T. R. E.*
Aswoldus Ten. **Chrochesdene**, *&c.* } The Fourteen others that held Lands (of so many) of Titles Prior (as he says) to King *Williams*, are these under this Title, and were the Kings Servants, as before, in *Dorsetshire*, and therefore they had no Title paramount to the Conquerors Donation.

His

His Sixth and last (2.) Inſtance is of one *Uctred*, who held ſeveral Lands in the time of King *Edward*, as in the time of King *William* the Firſt. Beſides ſeveral Diſpoſſeſſed, who have their Titles allowed: they have both been ſo diſingenuous, as in this Inſtance, to conceal the Title of the Kings Servants in *Yorkſhire* where this * *Uctred* is to be found. This *Uctred* was one of the (3.) Kings Thanes or Servants in *Yorkſhire*, and what Lands he held under that Title, were ſuch and in the ſame ſtate other Thanes held them in other Counties, and therefore he could have no Title Prior to that of King *Williams*. Such (as he ſays) were diſpoſſeſſed, are under the Title of (4.) *Clamores in Everwicſcire*, and the Controverſie was between *Norman* and *Norman*, upon King *Williams* Donation, whether they had their Poſſeſſions or Eſtates accordingly, not one ſyllable of any Claim of an *Engliſh-Saxon*, allowance of their Titles, or Reſtitution of their Eſtates, as theſe Gentlemen deſigned to impoſe, under general words, the belief of it, upon their Readers.

(2.) *Antinorm.* p. 62. *Fus Angl.* p. 90.

* See *ibidem*, p. 90. where *Uctred* and this Entry is to be found, amongſt others which were, though not there named the Kings Servants.

(3.) *Terra Tainor. Regis in Everwicſcire, Tit.* 29.

(4.) Domeſd. *f.* 373. *a col.* 1.

(5.) *Arg. Antinorm.* p. 72.

He concludes (5.) that theſe ſix Inſtances are enough (referring the more Curious to Mr. *Atwoods* Book, or to the great Survey it ſelf) to bear out his Aſſertion, that the *Engliſh* had Eſtates and Fortunes ſtill in their hands, which they held in King *Edwards* time, and did not derive under King *Williams* Title. Why were they then entred in *Domeſday*, as holding of him? Or ſuch other Perſons as did hold immediately of him?

But your Induſtrious Worthy Gentleman muſt not go off thus; Beſides theſe Inſtances you have thought fit to make uſe of, he hath very many others, which ought not to paſs without Examination, leſt it be ſaid afterwards, that you were an Injudicious Perſon, and knew not how to make choice of ſuch as were moſt appoſite to prove the point.

He begins with (5.) *Surrey*, and ſays *Oſwald* holds *Michelham*. *Idem Tenuit, T. R. E.* and no more.

(5.) *Fus Angl.* p. 81.

In (6.) *Domeſday-Book* thus.

(6.) *Fol.* 35. *a col.* 1.

Terra Ricardi filii Gilberti Comitis.

Oſwaldus tenet de Ricardo *Michelham*, *iſdem tenuit de Rege E. &c.* Here we ſee the Intereſt of King *Edward* in this Mans Land, (that is) the Fee or Dominion of it was given to *Richard* of *Tonebridge* Son of *Gilbert*, Earl of *Brion* in *Normandy*, one of King *Williams* conſiderable Aſſiſtants in the Conqueſt; and I leave it to the Reader to judge whether he thinks *Oſwald* did not make a Compoſition and Terms with *Richard* to have his Eſtate again, or held it not of him by a new and more ſevere Tenure than he did before, or it may be both.

Then he ſays (7.) *Seman* holds in *Midelham*, and no more in the *Survey*, Tenuit *de Rege Edwardo*, nunc tenet *de Willielmo* Rege. And this is certainly a new Title.

(7.) *Ibidem*, *Fus Anglor.*

Then

Then he comes to the Kings **Thains**, but hath **concealed** the Title, and says only, **William** the Hunter holds *Littleton*, **Oswald** holds *Pechingford*, **Seman** holds one Rood in *Copedorn*, **Oswald** holds *Fecham*, *Theoderick* the Goldsmith holds *Clevintune*, **Chetel** the Hunter holds *Lodeford*.

(8.) *Fol.* 36. *b. Col.* 2.

In (8.) *Domesday-Book* they are thus entred in order, he hath transposed them. A

Sudrie.

(9.) *Ibidem. Tit.* 36.

(9.) *Oswaldus, Teodoricus, & alii* **Serbientes** *Regis.*

Oswaldus **tenet de Rege** *Pechingeorde, ipse* **tenuit** *de Rege, E. &c.*

In Copendone Hund. **ten. Seman,** *unam virgatam terra* (which was the fourth part of an Hide, not a Rood, the fourth part of an Acre) *quam* **tenuit** *de Rege E. sed ex quo venit Willielmus Rex in Angliam* * **Serbivit** *Oswaldo, redd. ei* 20 *den. hic se potuit vertere quo voluit T. R. E. Ipse Oswaldus* **ten.** *Feceham ipse* **Tenuit** *T. R. E. &c.* **Teodricus** *aurifaber* **Tenet** *de Rege Chenintune ipse* **Tenu t** *de Rege E. &c.* **Chetel** *venator tenet Lodeford,* **Pater** *ejus tenuit de Rege, E. &c.* **Willielmus venator** *tenet de Rege Liteltone, ipse* **tenuit de Rege,** *E. &c.* These had been King *Edwards* Servants, and they were **continued** in their **Employments** and **Salaries** by King *William*, which were in Lands holden of him, and therefore had a new Title from a new Landlord, and as may be reasonably presumed, upon worse terms than under King *Edward*. B C

* Observe his Industry in concealing this Entry, *&c.*

Hamshire.

(1.) *Fus Anglor. p.* 82.

Terra (1.) **Tainorum** *Regis.* D

Alwi the Son of *Saul* holds *Tederly*, his Father held it in *Alodium* of King *Edward*, *Vluric* holds *Locherley*, four *Englishmen* hold *Wallop*, *Edmund* holds Lands of the King, *&c.* after the same manner to the number of thirty three of the Kings Tains and Servants in *Hamshire*, the Isle of *With*, or *Wight*, and about the New Forest.

In *Domesday-Book* thus. E

Hantescire.

(2.) *Fol.* 50. *a. Col.* 1.

Terra (2.) **Tainorum** *Regis.*

1. *Alwi filius Saulf* **ten. de Rege** *Tederleg, pater ejus* **Tenuit** *in Alodio de Rege E. &c.* but how he held it of the Conqueror it is not said there. F

2. *Vluric* **tenet** *Locherley* **de Rege** *pater ejus* **tenuit** *de Rege E. pro Manerio, &c.*

3. *Quatuor Angli* **tenent de Rege** *Wallope, pater eorum* **tenuit** *in Alodium de Rege E. &c.*

4. *Edmundus*

4. *Edmundus* **tenet de Rege** *Malcoltone, pater ejus* **tenuit** *de Rege E. &c.*

And thus, after this manner are all his Citations in this County, and ſo in the New Foreſt.

In (3.) *Nova Foreſta & circa eam.* (3.) *Ibid. fol. 51. b. col. 1.*

A

Terra **Tainorum** *Regis.*

1. *Femina Saulf* **tenet de Rege** *Hoburn, Saulf* **tenuit** *de Rege E. &c.*

2. *Ulgar* **habet** *de* **Rege** *unam virgatam Terræ in Melleford, ipſe* **tenuit** *de Rege E.* And ſo for others.

B

Terra (4.) **Tainorum** *Regis in Inſula de With.* (4.) *Ibid. fol. 53. b. col. 2.*

1. *Oriant* **ten.** *Celvecrote pater ejus Tenuit de Rege E. &c.*

2. *Alſi* **ten.** *de* **Rege** *Abaginge* **ipſemet tenuit** *de Rege E. in alodium, &c.*

C

And ſo of others in this Iſland; And note, that all who held under the direct and immediate Title of the *Terra Regis*, or Kings Lands, or the Title of *Terra Tainorum Regis*, did hold of the King, whether it was expreſſed or not, the Title under which they held being a ſufficient demonſtration of that.

(5.) *Barkſhire.* (5.) *Fus Anglor. p. 84.*

D

Terra Odonis & aliorum **Tainorum**, left out here.

1. *Walter* holds one Hide in *Ceneleberie*, which King *Edward* gave his Anceſtors, in the Margin, *de firma ſua ſolut. ab omni Conſuetud. propter Foreſtam Cuſtodiendam excepta forisfactura Regis, &c.* He was the Kings Foreſter.

2. *Edward* holds one Hide in *Coſerige*, he held it in *Alodium* of
E King *Edward.*

3. *Alward* the Goldſmith holds *Sotesbroc.* In the **Margin**, *pater ejus tenuit de Regina Edw.* and ſo for others he mentions in this County.

In *Domeſday* (6.) *Book* thus. (6.) *Fol. 61. b col. 1.*

F

Berrocheſcire.

Terra **Walleri**, *f. Other.*

Walterius filius Otherii **tenet** *dimid. Hidam quam Rex Edwardus* **dedit** *ejus* **Anteceſſori**, *de firma ſua, & ſolutam ab omni Conſuetudine, propter Foreſtam Cuſtodiendam, excepta forisfactura Regis, ſicut eſt,*

Latro-

Latrocinium, & Homicidium, & Henifara, & fracta pax val. 5 *sol.* And then follows.

Terra (7.) **Odonis** *& aliorum* **Tainorum.**

(7.) *Ibid. fol. 63. b. 1. col.*

1. *Edwardus* **Tenet de Rege** (left out in our Author) 1 *hidam in Coserige, ipse* **tenuit** *in Alodium de Rege E.*

A

2. *Alwardus Aurifaber* **tenet de Rege** *Soteshroc, pater ejus* **tenuit** *de Regina Edid, &c.* She was King *Edwards* Queen.

(8.) *Jus Angl. p. 85, 86, 87, &c.*

At this rate he rambles through (8.) fifteen Counties, and leaves out the Title of *Terra Tainorum*, or *Servientium Regis*, under which very near all the Persons he musters up did hold, in all of them, except three; And always says only such an one holds, and such an one holds, but not of the King, he never answers the meaning of *Domesday Book*, or the Conquerors Survey, which either by the Title, or expres words besides the Title, (such as) **tenet de Rege**, or **Tenet de Comite Rogero**, or *de* **Radulpho Mortimer**, *&c.* discovers whose the Lands, or at least, the Fee of the Lands was.

B

(9.) *Ibidem, p. 91, 92.*

And having pleased his own Fancy, and cheated his Reason and Understanding, he says, in these (9.) fifteen Counties (of thirty described in *Domesday*) there were above one hundred and eighty Freeholders, who derived not under King *Williams* Title.

C

Here I shall ask him (notwithstanding he hath industriously endeavoured to conceal it) whether very near all these Persons he hath mustred up in the several Counties were really King *Williams* Servants and Officers? Secondly, Whether he gave them their Employments, or which is all one continued them in them? Thirdly, Whether he gave or continued to them the Lands which they held for these Services and Employments? Fourthly, Whether by his great power he might not turn them out of their Employments and Estates, and put in others? If these Persons were his Servants and Thains, if he gave them, or continued them in their Employments and Lands, if he could take them away, and give them to others at pleasure, which no man of sense or reason can deny, or if *Domesday-Book* and the Survey be true, what becomes of these hundred and eighty **Freeholders**, that derived not under King *Williams* Title? they are vanished, but his most notorious Industry, and his Worthy Usage of one of the greatest and noblest Records of the Nation, do still remain.

D

E

(1.) *Arg. Antinorm. p. 72.*
(2.) *Ibidem, p. 73, 74.*
(3.) *Vid. Append. n. 2, and 3.*
King *William* restored Church Lands, but altered the Tenure.

Having urged the six Instances he took upon the Credit of his Industrious and Worthy Friend, our Author offers (1.) three more, from so many Charters of King *William*. The two first are Charters of Restitution of Lands to the Church of (2.) St. *Pauls*, and the Abby of *Westminster*; This we do acknowledge, and yet nevertheless he was a Conqueror; He (3.) Restored all Church Lands, but changed the Tenure, and put most of them under Military Tenure, that before were holden in *Franc Almoign*, or *Pure Almes*, and not only so, but changed likewise the Possessors of them, for in a short time after the Conquest most of the Bishops, Abbats, and great

F

great Churchmen were *Normans*, the *Saxons* being thrust out and they put in, as doth appear in the History of *William* the First; and this was almost the same practice he used in disposing of Lay or Temporal Mens Estates, for the Fee of all these Estates remained in himself.

He turned out *Saxon* Bishops, and Abbats, and put in *Normans*.

A The third is the (4.) Charter of *London*. *William* King greeteth *William* Bishop, and *Godfrey* **Port-Reve**, or **Portgereve**, and all the Burgesses within *London*, **French** and **English**, and I grant that they be all Law-worthy, as they were in *Edwards* days the King, and I will that each Child be his Fathers Heir, and I will not suffer that any Man do you wrong, and God you keep.

(4.) *Arg. Antinorm.* p. 74. in *Saxon*.

B Upon this Charter I shall observe, that these Priviledges were procured by (5.) this *William* Bishop of *London*, who was very inward with King *William*, and of his Council, as it was acknowledged in the Inscription upon his Monument in St. *Pauls* Church which was erected by order of a Common * Hall. Secondly, I observe, that this Bishop died in the year 1070. and that this Charter was granted before that time, and therefore no great stress can be laid upon it, for the great Promises he made to the *English-Saxons* in the beginning of his Reign, and at his first Entrance, he never much regarded, when he had totally subdued the Nation. Thirdly, I

(5.) *Godwin. de præsul.* p. 232.

* *S. P. Q. Londinens. posuit.*

C shall observe, that this Charter contained no other Priviledges, than that the Burgesses should be Law-worthy, as they were in *Edwards* days the King, that is, they should enjoy the Privileges that belonged to them as Merchants, Tradesmen, Mechanicks, and Artificers, and meerly such, for the carrying on their own Business and Employments, and the Laws, Usages, and Customs only that belonged to such Affairs, and by which they were managed and regulated in his time; No Man can imagine they medled then with

What was granted to the Citizens of *London* by K. *Williams* Charter.

D Politicks, or once offered to meddle with the Government of the Nation, or directed King *William* how to Govern, or that they can pretend he ever by this Charter could give them such liberty, or permit them so to do; All they could expect or pretend to from this Charter, was, the free use of their Calling, the enjoyment of their Estates and Goods, and that their Children should be their Heirs, and protection from Violence.

E He did not that I have read of, take away Merchants or Traders Goods, in any City or Burgh, nor put them out of their method and way of Trading, for that had been much to his disadvantage; He built Castles and Cittadels in many of the Cities and great Towns, and raised their Tolls and Customs, in some he doubled them, and with the security of his many Garisons and a great Army, it was more for his profit to maintain Trade than destroy it.

The Conqueror did not take away Merchants Goods, But increased the Toll and Customs of Cities and Burghs.

F *T. R. E. val.* (6.) *Eboraci civitas Regi 53 lib. modo C. lib. ad pensum.* In the time of King *Edward*, *York* paid to the King Fifty three pounds, now One hundred by Weight.

(6.) Domesd *f.* 298. *a col.* 2.

T. R. E. (7.) *Oxeneford reddebat pro Theloneo, & Gablo & omnibus aliis Consuetudinibus per annum Regi 20 lib. & 6 Sextaria Mellis, Comiti Algaro 10 lib. adjuncto Molino quem infra Civitatem habebat, modo reddit Oxeneford 60 lib. de 20 in ora.*

(7.) Ibid. m. *f.* 154. *a col.* 1.

In the time of King *Edward*, *Oxford* paid for Toll, Gable, and all other Customs and Payments, by the year to the King, Twenty Pounds, and six * Sextaries of Honey; to Earl *Algar* Ten Pounds, his Mill which he had in the City being added, now it pays Sixty Pounds of twenty in an Ore; it was a *Danish* word, and whether it was an Ounce in weight or Coyn, it is doubtfull, there were several sorts, one contained 16 Denarii or Pence, another twenty, another twelve, another thirty, an Ore and a Shilling in this manner of computation was the same. A

* A Sextary in Liquids, was an uncertain Measure, sometimes a Pint, sometimes a Quart, a Galon, four Galons, here I take it to be a Galon.

(8.) Ibidem, *f.* 36. *b. col.* 1. *T. R. E.* (8.) *Wallingford valb.* 30 *lib. & post* 40 *lib. & tamen Reddit de firma quater* 20 *lib. ad numerum.*

In the time of King *Edward*, *Wallingford* was valued at 30 *l.* afterwards 40 *l.* now (that is at the time of the Survey) 60 *l.* besides the Farm Rent which it pays 80 *l.* by Tale. B

(9) Ibidem, *f.* 36. *b. col.* 2. *T. R. E.* (9.) *Dabat.* (9.) *Stanford* 15 *lib. modo dat ad firmam* 50 *lib. de omni Consuetudine Regis dat* 27 *lib.*

In the time, *&c. Stanford* gave 15 *l.* now it pays Farm Rent 50 *l.* and for all Payments to the King 28 *l.*

(1.) Ibidem. *f.* 280. *a. col.* 1. *T. R. E.* (1.) *Snotingaham redd.* 18 *lib. modo reddit* 30 *lib. &* 10 *lib. de moneta.* C

In, *&c. Notingham* paid 18 *l.* now it pays 30 *l.* and 10 *l.* for liberty of Coyning, the Coyners or Monetarii paid this.

(2.) Ibidem. *f.* 290. *b.* in the little Book. *T. R. E.* (2) *Gepeswic Reddebat* 15 *lib. &* 6 *Sextarios Mellis, &* 4 *sol. ad Consuetudinem Mellis, &* 8 *sol. ad prebendarios, & Rogerus vicecomes dedit totum ad firmam pro* 40 *lib. ad festum Sancti Michaelis, postea non potuit haber censum & ex hoc Condonavit* 60 *sol. modo reddit* 27 *lib. & Monetarii reddebant per annum T. R. E.* 4 *lib. pro Moneta. modo debent reddere* 20 *lib. sed de quatuor annis non reddiderunt nisi* 27 *lib. & Comes semper habet tertiam partem.* D

In, *&c. Ipswich* paid 15 *l.* and six Sextaries of Honey, and four Shillings for the Custom of Honey, and eight Shillings to Prebendaries, and *Roger* the Sheriff let the whole Town to Farm for 40 *l.* at the Feast of St. *Michael*, but could not get the Rent, and therefore he abated 60 *s.* now it Rents for 37 *l.* and the Moneyers or Coyners paid for the liberty of Coynage by the year, in the time of King *Edward* 4 *l.* now they ought to pay 20 *lib.* but these four years they have paid only 27 *l.* and the Earl always had the third part. E

(3.) Little Book, *f* 117. *a.* * *Gersuma* the *Saxon* word signifies Reward, Riches, Treasure, or Money paid beforehand, but if *Gersuma* for *ingersuma*, (as it is sometimes written) then 'tis *ingressus summa*, a Fine or Income. *T. R. E.* (3.) *Norwic. reddebat* 20 *lib. Regi, & Comiti* 10 *lib. & praeter hoc* 21 *sol. ad Prebendarios &* 6 *Sextarios Mellis, &* 1 *ursum &* 6 *canes ad ursum & modo* 70 *lib. ad pensum Regis &* C. *sol. ad numerum, de* * *Gersuma Reginæ, &* 1 *Asturconem, &* 20 *lib. Blancas Comiti &* 20 *sol. Gersuma ad numerum.* F

In, *&c. Norwich* paid 20 *l.* to the King, and to the Earl 10 *l.* and besides this 21 *s.* to Prebendaries, and six Sextaries of Honey, and one

one Bear, and six Bear-Dogs, now it pays 70 *l.* according to the Kings Standard, and 100 *s.* by Tale, the Queens Money, or a Fine or Income to the Queen, and one Pad or Palfrey, and 20 *lib.* of Silver to the Earl, and 20 *s.* by Tale for an Income or Reward.

Besides their Customs, Payments, and Tolls, they were liable to Mulcts, and Forfeitures for Crimes, nay, many or most of the very A Houses in many Burghs and Cities, and may be in some all were divided amongst the *Normans*, as in *Northampton*, *Warwick*, *Southampton*, *Stadford*, and others. In other Burghs the Burgesses paid Money to the *Normans* their Patrons, as perhaps they did to the *Saxons* (4.) *Bochingheham. In hoc Burgo Episcopus Constantiensis habet tres Burgenses. Quos tenuit Wulward filius Eddere, hi reddunt sex solidos & sex denarios per annum & Regi reddunt undecim Denarios. Hugo Comes habet unum Burgensem qui fuit homo Burcardi de Senelai hic* B *reddit 26 Denarios per annum & Regi Quinque denarios. Robertus de Olgi, habet unum Burgensem qui fuit homo Azor. f. Toti. hic reddit 16 denarios & Regi Quinque Denarios. Hugo de Bolebec habet quatuor Burgenses, qui fuerunt homines Alrici, hi reddunt 28 Denarios, & Regi 12 Denarios*; And thus were all the 26 or 27 Burgesses that were in this Town at the time of the Survey distributed amongst the *Normans*, and so in many other Burghs, see *Pevensel*, *Arundel*, *&c. Gepeswic.* (5.) *In Burgo erant T. R. E.* 538 *Burgenses reddentes Con-* C *suetudinem Regis & habebant* 40 *acr. Terræ. Modo vero sunt*, 110 *Burgenses qui consuetudinem Reddunt &* 100 Pauperes *Burgenses qui non possunt reddere ad Geltum Regis* (that is the Kings Custom or Payment) *nisi unum Denarium de suis Capitibus, & inter Totum simul habent* 40 *acr. Terræ &* 328 *Mansiones vastatæ sunt in Burgo quæ T. R. E. Scottabant ad geltum Regis.*

(4.) Domesd. f. 143. col 1.

(5.) Ibidem, f. 290. a.

These were the Liberties and Priviledges that other Cities and D Burghs enjoyed under King *William*, what the condition of *London* was at the time of making this Survey cannot easily be known, for neither that City nor *Winchester*, nor *Abington* in *Barkshire*, nor some few others of less note are to be found there; what ever Trading Priviledges and security of their Goods they at first obtained, was from the kindness and intercession of their Bishop, *William* the Conquerors great Favourite, and if they kept them after his death, it was by their great submission and obedience to his Government, E but as to their Customs and Payments, and their Tenures likewise, no Man can think but they bare a proportion to other Cities and Burghs.

Thus much for his own three Instances; He comes next to the general (6.) direction of Charters and Writs in King *William* the First his time (as he says) from which he avers it plainly demonstrable, That *William* the pretended Conqueror, did not divide all F the Lands of *England* amongst his *Norman* Followers.

(6.) *Arg. Antinorm.* p. 80. *Jus Angl.* p. 124.

The first Charter (7.) is directed by King *William* to *Osmond* Bishop of *Salisbury*, *Robert* of *Ely*, (probably Sheriff of *Hertfordshire*) and *Peter* of *Valoings* Sheriff of *Essex*, to instate *Maurice* Bishop of *London* in (8.) *Stortford*, now Bishop *Stortford* Castle and other Lands. This *Maurice* a *Norman* was Consecrated Bishop of *London*

(7.) *Antinorm.* p. 80.

(8.) *Dugd.* Hist. of St. *Pauls* in *Append. f.* 196.

London 1087. in the last year of *William* the First; and whether this was the Charter of *William* the First, or *Rufus*, it may puzle them to make it out. The second is a *Saxon* Charter of King *William*, but of which King *William* I have not enquired.

* *Antinorm.* p. 81. (9.) *Monast.* vol. 1. f. 185. n. 10. (1.) *Godw. de præsul.* p. 341.

The * third is a Charter of King *William*, but it must be of *William Rufus*, for (9.) *Robert* Bishop of *Lincoln*, which was *Robert Bloet* was a Witness to it, and he was not (1.) Consecrated Bishop of *Lincoln* until 1092. the sixth of *Rufus*. A

* *Antinorm.* p. 81. (2.) *Monast.* vol. 1. f. 397.

The fourth * is a Charter of King *Williams*, but it was of *William* (2.) *Rufus*, though the Author of *Jus Angl. &c.* boldly affirms it was the Charter of *William* the First, *pag.* 124. when as in the same Folio that he cites, (2.) the Column, and the very next numbers, he might have seen it was *Rufus* his Charter, as appears by these words. *Anno Domini* 1088. *fundata fuit Abbatia Sanctæ Mariæ, per Dominum Stephanum primum Abbatem ejusdem, Anno Regni Regis Willielmi, filii Regis Willielmi* primo. And *Rufus* confirms the Gift of *Ralph Meschines* Earl of *Cumberland*, of the Maner of *Wederhall* to this Abby which was a Cell of St. *Mary*'s in *York*; See *Monastic. Angl. f.* 397. *col.* 2. *n.* 30, 40, 50, 60. Are these just and fair Citations? to affirm these Charters to be Charters of *William* the Conqueror, when they were his Sons *Rufus*. B

C

(3.) *Antinorm.* p. 81. (4.) *Monast.* vol. 1. f. 29. col. 2. n. 20.

The fifth is a Charter of King (3.) *Williams*, but of *William Rufus* likewise, for *Robert* (4.) Bishop of *Lincoln* is a Witness to it, and was Consecrated as before.

* *Antinorm.* p. 82. (5.) Ibid. *Monast.* n. 40, 60.

The * sixth and seventh are about the same business of the Church of *Rochester*, with the fifth, and therefore probably by the same King, seeing they do immediately follow it in the same Column, and next numbers in the Monasticon, though 'tis not clear what time the Witnesses lived and died. D

* *Antinorm.* p. 82. Carliel.

The * eighth as 'tis to be found in *Monast. vol.* 2. *f.* 845. *col.* 1. *n.* 60. runs thus. *Will. Rex Angl. G. vicecom. & Baronibus suis de Caerliel salutem. Volo & præcipio ut ita intendatis, de Christianitate ad Archidiacanum Dunelm. sicut intendebatis Tempore Willielmi Episcopi Dunelm. Teste E. dapifero.* This was to the Inhabitants of *Carlisle*, that they should submit or repair to the Court of the Archdeacon of *Duresm* as formerly in the time of *William* Bishop of *Duresm*, who laid one of the three first Stones of the Cathedral Church in *Duresm*, *Anno Domini* 1093. *Aug.* 11. and died *Anno Domini* 1096. *Decimo Rufi. Godw. de præsul. Dunelm. p.* 108, 109. E

* *Monast. vol.* 2. *f.* 845.

The ninth is of King *William*, but of King *William Rufus*, for it is a * Restitution of *Ralph* Bishop of *Duresm* to several Lands, and he was not Consecrated until the Thirteenth of *Rufus*, the Bishoprick being void three years and four Months after the death of *William* aforesaid, *Godw. de præsul.* p. 109. F

(6.) *Antinorm.* p. 82.

The three (6.) that follow are the Charters of *Henry* the First, and thus I have given some check to *Antinormanicum*'s Confidence in affirming, that the **Charters** he cites were the Charters of *William* the

the First. But be they who they may, the Directions of them, *Baronibus & fidelibus suis* **Francis & Anglis**, which he so much insists upon, signifie nothing, they were but words of course and common Form, and expressed no more the Quality, Nation, or State and Condition of those Persons, than the words, *Omnibus Christi fidelibus, notum sit omnibus, noverint universi, sciant tam futuri, quam præsentes*, or *sciat universitas vestra* did in old Charters, by which they were A directed to the whole World; when such Charters with such Directions concerned only particular Persons, and the Contents of them were about particular Matters.

Yet if any one desires further satisfaction, let him see the Glossary in the words *Angli & Franci*, and I may hope he will be induced to believe, by what is said there, that if these Directions were of any Consideration, yet the *French* and *English* Barons and Fideles B or Vassals there meant, were *English* and *French-Normans*, and not *English-Saxons* and *Normans*.

From the Directions of these Charters he proceeds to two (7.) Branches of King *William* the First his *Magna Charta*, *viz.* (8.) to Law or Chapter 55, and 63. these two Laws have been sufficiently spoken to before in this Answer, where it hath been made appear that neither of them were made with respect to the *English-Saxons*; C Here I shall only remark, that he hath culled out what he thought made for his purpose, and left out two intermediate Laws, *viz.* the *158, and 59. that would have told him for whose sake these Laws were made, and who the Freemen were that were to have the benefit of them, to wit, all the Freemen of the Kingdom that held Lands by the Gift of the Conqueror confirmed by Common Council, to furnish themselves, and be ready with Horse and Arms, to defend his Crown and Dignity against his Enemies, (which perhaps our D Author will not think were *Normans*) when he hath well considered the matter.

(7.) *Antinorm.* p. 84. Mr. *Petyt's* Preface, p. 32, 33. *Jus Angl.* p. 128, 129.

(8.) *Selden not. ad Eadm. f.* 190. n. 40. *f.* 194. n. 20. *Ibid. f.* 191. n. 12, 20, 30.

Next, as he (9.) says, he troubles his Reader with one more memorable Record as late as to the 26 *Hen.* 3. which shews, that from before the coming in of this *Norman* Conqueror, down to that time, the *English* had a property continued to them; and so then, this mighty Man of Victory did not govern them as an intire and absE lute Conqueror, whatever our late Writers have been pleased to publish to the World.

(9.) *Antinorm.* p. 85, 86. *Jus Angl.* p. 112, 113.

The words of the Record are.

Rex (1.) *Baronibus, Mandamus vobis quod occasione arrentationis serjantiarum assessæ per Robertum Passelewe non distringas* **Jacobum** *de* **Archamgere**, *per 2 Marc. & dimid. de tenemento quod de nobis Tenet per serjantiam in Archamgere, in Comitatu Southampton, &c. per chartam Beati Regis Edwardi Antecessoribus ipsius* **Jacobi** *super hoc Confectam. Sed ipsum* **Jacobum** *de prædictis 2 Marcis & dimid. quietum faciatis in perpetuum Quia chartam Beati Edwardi Confirmavimus, & ipsam volumus inviolabiliter observari.*

(1.) *Comun. de Term. Mich.* as there cited, 36 *Hen.* 3. *Pro Jacobo Archamgere.*

In

In *English* thus.

(1.) *Antiquit.* p. 87.

The King (2.) to the Barons (of the Exchequer) We Command you that by the occasion of the Rent of Serjanties, assessed by *Robert Passelewe*, you shall distrain *Jacob* of *Archamger*, by two Marks and an half for the Estate or Tenement he holds of Us by Serjanty, in *Archamgere* in the County of *Southampton*, *&c.* by Charter of King *Edward* made to the Antecessors of this *Jacob* concerning it, and this *Jacob* of the aforesaid two Marks and an half, you shall quit for ever, because we have confirmed the Charter of the aforesaid St. *Edward*, and we will have it to be inviolably observed. A

(3.) Ibidem, & p. 88.

The invalidity and insufficiency of this Record to prove what our Author would have it, *viz.* That the (3.) *English* were not put out of their Properties, which they held and enjoyed in the time of *Edward* the Confessor, but that they still enjoyed them as before, notwithstanding all the vain pretences to the contrary, shall be shewn by this more Authentick and Ancient Record. B

(4.) Domesday-Book.

Hantescire, (4.) *f.* 49. *b. vol.* 2.

Terra **Tainorum Regis.** C

Edwinus Tenet Acangre, & dicit quia emit de Rege Willelmo, sed **Scira** *nescit hoc.* **Alwi Tenuit** *de Rege Edwardo, & nunc* **Richardus** *tenet de* **Edwino**, *T. R. E. se defendebat pro una hida, & una virgata, Terra est Quatuor Carucarum, in Dominico sunt Duæ & octo villani & 5 Bordarii cum tribus carucis, & duo servi & duæ acræ, prati, T. R. E. & post valuit* 40 *sol. modo* 60 *sol.*

The Kings Servants Land. D

Edwin holds *Acangre*, and says, because he bought it of King *William*, but the Shire knows not this. *Alwi* held it of King *Edward*, and now *Richard* holds it of *Edwin*. It defended it self, or was taxed and valued at one Hide, and one Virgate, the Land is four Carucates or Ploughlands, there are two in Demeasn, and eight Villans and five Bordars with three Ploughs, and two Servants, and two Acres of Meadow; In the time of King *Edward* and afterward it was worth 40 *s.* (by the year) now 3 *l.* E

This *Acangre* must be that place which was afterward called *Archamgere*, or there was no such place in *Edward* the Confessors or the Conquerors time in this County. This was holden in *Serjanty* at the time of the Conquest, for *Serjanty* signifies no more than Service, and this Land was holden by one of the Kings Servants, as appears by the Title, and there can be no doubt but he performed his Service for which he held it. When the Condition of Lands was changed, and they began to be improved, and our ancient Kings let many of them out in Fee-farm, there was no need or Employment for many of these Servants, and then their Services began to be changed into Mony, and to be rated by the Kings Officers; This was the care here, and *James Archamgere* pleads a Charter of King *Edward* the F

Confessor

Confeſſor in diſcharge of ſuch Aſſeſſment, which was allowed. The Judges, as hath been before obſerved, were impoſed upon by a falſe Deſcent in the Prior of *Coventry*'s Caſe; and 'tis very probable in this caſe they were impoſed upon by a forged and falſe Charter of King *Edward*, for if they had had Recourſe to *Domeſday-Book*, they would have found that the Anteceſſors of *Archamgere* could not be Kindred or Anceſtors in Blood, but only in Poſſeſſion, and that King *Edwards* Charter, if any ſuch were, could make nothing for this Perſon; for *Alwi* that held it of King *Edward* in his time, was outed, and *Edwin* had poſſeſſion of it, and held it of King *William*, and *Richard* under him; nor can it be true that *Archamger*, or any one that had the poſſeſſion of it before him, was in poſſeſſion of this place, as well in the Confeſſors as Conquerors time, and therefore it cannot be proved from this memorable Record, that the *Engliſh* ſtill enjoyed their Properties in the time of King *William*, as they had done in the time of King *Edward*.

At laſt our Author ſhuts up this Point with (5.) two or three Paſſages of Ordericus Vitalis which he had from Picavienſis, and which have been fully Conſidered in the beginning of this Anſwer, as likewiſe his Deductions from theſe Paſſages, and thoſe words of Picavienſis, (6.) *Nulli tamen Gallo datum eſt, Quod Anglo cuiquam injuſte fuerit ablatum.* And therefore I refer the Reader to what hath been ſaid there.

(5.) *Antinorm.* p. 88.

(6.) Ibidem, p. 93. & *Jus Ang.* p. 115.

The Fourth Queſtion is,

Whether (7.) it be not a grand Error to affirm, that there were no *Engliſhmen* in the Common Council of the whole Kingdom?

(7.) *Antinorm.* p. 95.

The main (8.) pinch and ſtreſs of this Queſtion our Author ſays, is, whether after *William* the Conqueror had ſetled himſelf as well as he could on the *Engliſh* Throne, he did admit any of the *Engliſh* to ſit in the great Council of the Nation, and to Adviſe and Conſult *de Arduis, & urgentibus negotiis Regni.*

(8.) Ibidem, p. 96.

By thus laying down the pinch and ſtreſs (as he calls them) of this Queſtion, he hath not only truly ſtated it, but likewiſe all the other three, by reducing them to their true time, wherein we ought to make a Judgment of King *Williams* Actions, Government, and Behaviour in this Nation.

But in this very (9.) Paragraph he ſays, that the grand Court of Parliament was in ſubſtance the ſame, that it was before the coming in of this Conqueror, and that there were *Engliſhmen* Members of it in the time of the Conqueror; The firſt is eaſily granted him, if he means, the Great Council or Parliament conſiſted of the ſame Head and Members, that is, of the King, Biſhops, Abbats, and the Baronage or Nobility. But for the other he is to recollect himſelf, where the pinch and ſtreſs of the Queſtion lies, and then let him tell me whether he thinks after King *William* had fully Eſtabliſhed himſelf in the *Engliſh* Throne, he called any of the *Saxons* to his Great Councils.

(9.) Ibidem.

Yet

(1.) Ibidem, p. 97, 98, 99, 100.

Yet prove it he will, from the continuance of (1.) lesser Courts, as County Courts, Hundred Courts, and Court Barons, after the Conquest. It will not be denied but that County Courts and Hundred Courts did remain, that is, there were Courts holden in such Portions of the Nation as Counties were, for such Portions; and in such Divisions of Counties as Hundreds were, for such Divisions, that right might be done in them for the ease and conveniency of the People, (for the Nation was divided into such Shares and Portions long before the Conquest) but that the same Law, and the same Course and Method of Proceedings was used before and after the Conquest, remains yet to be made appear. In many things the *Norman* and our *Saxon* Laws agreed, as being derived to both from *North-Germany*; and though in *Normandy* there was no County or Hundreds, yet there were Bayliwicks which resembled our Counties, and Viscounts which resembled our Hundreds, though perhaps they were much larger. There was and is in *Normandy* seven (2.) principal Bailliages or Bayliwicks, *viz.* of *Roven*, *Caen*, *Caux*, *Constentin*, *Eureux*, *Gisors*, *Alenson*, and every one of these had their Bayliff or chief Officer who was Judge in the Bayliwick Court, and hence it is that in our old Law Books and Records, and in some Law Proceedings, a County is called *Baliva*, and hence also the reason of the Form of the Return, *Non est inventus in Baliva mea.* As before was noted, Hundreds there were none, but many Vicounties and Liberties, as the Vicounty of *Roven*, of *Caen*, of *Bayeux*, of *Fallaise*, of *Gisors*, of *Vernon*, of *Caudebec*, and (3.) thirteen more, which had their Jurisdictions in and over many Villages, as to mean Justice, and Pleas of smaller matters than those of the Bailliage, that were holden from fifteen to fifteen days, and at this day ordinary Judges in Villages are called Vicounts in many places in *Normandy*. Lastly, as to Court Barons, or Lords Courts in their several Maners, the *Saxon* Lords had a Jurisdiction of their Tenents and Residents in their Fees, but not the same Fiefal or Feodal Jurisdiction which the (4.) *Normans* brought with them, nor was there the same Law, Form, Usages, and Proceedings in *Saxon* Maners and Jurisdictions Feodal, as since the Conquest; for the Terms, Usages and Forms of Proceedings we yet retain in the Courts-Baron, we received from the *Normans*. Who will have further satisfaction in this point, let him peruse the parallel between the *English* and *Norman* Laws in the Preface to the *Norman* Story. But what if it be granted, that he did permit these small Courts of Justice to remain, and have their course in such matters as touched not his Government and Establishment, certainly he might be a Conqueror notwithstanding that.

(2.) *Du Chesne Antiquit. des villes*, &c. p. 938.

(3.) *Berault* in the local Customs of these Places.

(4.) Old Custom, *c.* 2. & *c.* 30.

From the small Courts, he comes to the (5.) Soveraign Court of Parliament it self, to shew what it was, and of whom it consisted in the *Saxon* times, and for this he thinks it (6.) needless to give any more than one Instance, which does (7.) impregnably assert, That the Commons of *England* were an Essential and Constituent part of the *Saxon* General Councils, and fully and clearly (8.) refute and baffle that Novel Erroneous Notion, that there are no Commons to be found in the *Saxon* Great Councils, nor any thing that tends towards the proof of the Commons of those times, to have had any share in making Laws in those Councils; and his (9.) Memorable Instance is the (1.) mighty Law of Tithes (as he calls it) which was made and ordained.

(5.) *Antinorm.* p. 100.

(6.) (7.) (8.) (9.) (1.) Ibid. p. 101.

(2.) *A Rege, Baronibus, & Populo.*

These are indeed mighty words for a little Man, he thinks this Law was made in King *Edwards* days, and was Piping-hot when the Conqueror came in, but it will prove otherwise upon examination of it, and also doubtful whether there was ever such a Law or not, made by a *Saxon* Monarch or King. For after the (3.) Law hath enumerated, the maner of Tithing in very many things both great and small, requiring an exact Tenth to be paid for most of them; it says, that he which detains the Tenth, if need be, may be forced to payment by the Justice of the Bishop and King, and then immediately follows these words. *Hæc enim prædicavit Beatus Augustinus, & Concessa sunt a* **Rege, Baronibus & Populo.** *Sed postea instinctu diaboli, Multi eam detinuerunt, & sacerdotes locupletes negligentes, non Curabant inire laborem, ad perquirendas eas, eo quod sufficienter habebant suæ necessariæ vitæ.* These things St. *Augustin* Preached up, and they were granted by the King, Barons, and People, but afterwards by the instinct of the Devil, many detained them, and the rich Priests were negligent, not caring to be at the trouble to recover them, having sufficient for their own support.

(1.) Ibidem, *Lamb. LL. Edw. Reg. c. 8. f.* 139.

(2.) *Lamb. Ibidem.*

Hence 'tis evident, that these Concessions of Tithes were made in the time of St. *Augustin* upon his Preaching, that is, of *Augustin* Arch-Bishop of *Canterbury*, sent hither from *Rome* in the Reign of *Ethelbert* King of *Kent*, for the words, *& Concessa sunt a* **Rege, Baronibus, & Populo,** can relate to no other than the words immediately preceeding, *Hæc enim prædicavit Beatus Augustinus.* And the words next following them do also prove the same; *Sed postea instinctu Diaboli, Multi eam (Decimam, viz.) Detinuerunt, &c.* which was after they were granted by the King, Barons, and People, so that this was at most but the Confirmation of a Law made by King *Ethelbert*, and how, and by what words the Legislators were expressed, near 500 years after the Law made, or how they were rendred in *Latin* after the coming of the *Normans*, transiently and without design to give an account of them, cannot be of much value to prove who they were; and that the Laws of King *Edward* were made, or at least Translated into *Norman Latin* after the Conquest, appears by the words, *Comites, Barones, Milites, Servientes, Servitium, Villanus, Catalla, Manutenere*; all *Norman* words, and not known here until their coming hither. He that will assert any thing from a single uncouth Expression in one case, and upon one occasion only, brings but a slender proof for what he says. *Rex mandavit*, says (4.) *Florence* of *Worcester*, *ut Archiepiscopi, Episcopi, Abbates, Comites, Barones, Vicecomites, cum suis Militibus, die Calendarum Augusti sibi occurrerent Searesberiæ. Quo cum venissent Milites eorum, sibi fidelitatem contra omnes homines Jurare Coegit.* *Simeon* of *Durham*, and *Hoveden* have the very same words: *Hen.* of *Huntington* somewhat strangely, explains this Meeting, and expresses it otherwise, (5.) *Willielmus Rex*, (saith he) *accipiens Hominum omnium Terrariorum Angliæ, Cujuscunque feudi essent, juramentum etiam fidelitatis recipere non distulit.* Here the Milites, such as held Lands in Military Services, of the Arch-Bishops, Bishops, Earls, Barons, &c. are called *Terrarii.* Would any Man therefore think these *Terrarii*

(4.) *Fol.* 641.

(5.) *Fol.* 212. *l.* 8. 20.

were ordinary Landholders, and Terr-Tenents; ſurely not, they did no Homage. *Ralph de Diceto* expreſſeth it yet more uncouthly, (6.) *Rex Willielmus Convocatis tam Clero, quam Baronibus, apud Searesberie, omnes ſibi fidelitatem Contra omnes homines jurare Coacti ſunt*; Doth any Man think that the Arch-Biſhops, Biſhops, and Abbats (here meant by the Clergy) were not Barons, becauſe *Ralph de Diceto* ſays upon this occaſion only, that he called together as well the Clergy as the Barons?

(6.) Col. 487. n. 60.

A

So will any Man think, becauſe 'tis ſaid in one of King (7.) *Edwards* Laws, and perhaps no where elſe, concerning the Kings Coronation, *Quod debet in propria perſona coram Regno, & Sacerdotio, & Clero jurare antequam ab Archiepiſcopis & Epiſcopis Regni coronetur.* That the Prieſts were not Clergymen, nor the Clergymen Prieſts; and that the Arch-Biſhops and Biſhops were neither? Many other uncouth Expreſſions do often occur in the old Monks, which are to be interpreted according to the common uſage and practice of the times in which they are delivered; and therefore ſeeing before the time of the Conqueſt, and for two or near three Centuries of years afterward, the Commons (as at this day underſtood) were not (8.) called, nor did come to Great Councils or Parliaments. By **Barons** here muſt be meant the great Barons, and by **Populus**, the *Communitas Angliæ*, or which was then all one, the *Communitas Baronum*, the leſſer Barons or Tenents *in Capite*; and this ſenſe of the words is further confirmed by the famous (9.) Exemplification or Declaration of the Sentence of Excommunication pronounced againſt the Infringers of *Magna Charta*, where towards the latter end are theſe words; *Dominus Rex & prædicti Magnates omnes (R. Comes Norff. & Mareſcallus Angliæ, H. Comes Hereford & Eſſex. J. Comes de Warwic, Petrus de Sabaudia* there named; *ceterique Magnates Angliæ) & communitas populi proteſtantur publice in preſentia venerabilium patrum D. Dei Gratia Cantuarien. Archiepiſcopi totius Angl. Primat. nec non & Epiſcoporum omnium in eodem colloquio exiſtentium.* In this Record (1.) the *Communitas Populi*, as diſtinguiſhed from the *Magnates*, the great Barons there named, and the reſt of the great Barons of *England*, were the Community of the Laity, or Community of the leſs Barons, or Tenents *in Capite*, as hath been formerly proved and aſſerted againſt Mr. *Petyt*.

(8.) See Anſwer to Mr. *Petyt*, *f.*

(9.) *Pat* 37. *Hen.* 3. *m.* 13.

(1.) Anſwer to Mr. *Petyt*.

B C D

After this mighty Inſtance, (2.) he ſays, Laws were here ſetled, not *Ex plenitudine Regiæ poteſtatis*, nor by the *Norman* Barons co-operating with that power, but by the joint Advice and unanimous Conſent of the grand Council of the Lords and Wiſe Men of the Kingdom of *England*. (3.) To prove which, he produceth the Teſtimony of many ancient Writers, whom no Man, he ſays, of Hiſtorical Underſtanding, can modeſtly impeach of Partiality, Faction, or Intereſt in the Caſe in Queſtion.

(2.) *Antinorm.* p. 102.

(3.) Ibidem.

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The firſt (4.) Teſtimony is out of the Chronicle of *Litchfield*, which he cites out of *Lambard*, *f.* 158. the words in that Book are theſe, *Anno Gulielmus Regni ſui quarto, apud Londonias Conſilio Baronum ſuorum, fecit ſummoniri per univerſos Angliæ Comitatus, omnes Nobiles, ſapientes, & ſuâ Lege eruditos, ut eorum leges & Conſuetudines audiret, & licet idem Rex Willielmus leges Northfolkiæ & Suffolkiæ, Cantabrigia*

(4.) Ibidem.

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brigiæ & Deiræ (ubi quondam maxima pars Danorum & Norwegenſium inhabitabant) prius magis approbaverat, & eas per totum Regnum obſervari præceperat, pro eo quod omnes anteceſſores ejus & fere omnes **Barones** *Normanniæ, Norwegenſes extitiſſent, & quod de Norwegia olim veniſſent. Sed poſtea ad preces* **Comunitatis** *Anglorum* **Rex** **adquievit**, *qui deprecati ſunt quatenus permitteret, ſibi leges* **proprias** *&* **conſuetudines** *antiquas habere in quibus vixerant patres eorum, & ipſi in eis nati, & nutriti ſunt, ſcilicet leges Sancti Regis Edwardi, & ex illo Die magna authoritate venerata, & per univerſum Regnum corroborata, & conſervata ſunt, præ cæteris Regni legibus leges Regis Edwardi.*

From this Hiſtory he aſſerts, Firſt, That this was a Parliament; Secondly, That the *Barones ſui* were *Engliſh* not *Normans*, and that in this great Council were all the *Engliſh Nobiles & Sapientes*, Nobility and Wiſemen, and that the Commons were here alſo, becauſe King *William* granted theſe Laws *ad preces* (5.) *Communitatis Anglorum*. Concerning the improbability and partiality of this Hiſtory I ſhall ſpeak in another place, more than is ſaid before in handling his ſecond Queſtion. But whether this Story be true or not, it ſhall be granted to be ſo; but then our Author muſt remember what he ſaid before, That the ſtreſs of the Queſtion was, whether when *William* had ſetled himſelf as well as he could upon the *Engliſh* Throne, he admitted any *Engliſh* into his great Councils to Adviſe and Conſult about the difficult and urgent Buſineſs of the Kingdom, and then he may Anſwer this Teſtimony himſelf, eſpecially if it be conſidered, that it cannot be made appear, that King *William* kept all the Promiſes he made at all times.

(5.) *Ibidem*, p. 103. p. 111. *Flos Angl.* p. 148.

This Grant was made, and the great Councils holden in the Fourth year of his Reign, but then he had not ſetled himſelf ſo well as he could, then he had not made an intire Conqueſt of the Nation; that was not done until after the great appearance of the Natural *Engliſh* in Arms, and the great meeting which *Frederic* Abbat of St. *Albans* with others headed at *Berkhamſtead*, which was not until above two years at leaſt, if not five afterwards. For this Abbat after the breaking up of that meeting, and *William*'s ſevere uſage of the *Engliſh* immediately upon it, (6.) went into the Iſle of *Ely*, (as was ſaid before) and there ſoon after died. But in the Sixth (7.) year of King *William*, *Anno Dom.* 1072. he was (8.) at Court at *Windſor* in the Feaſt of *Penteceſt*, and there Signed the Agreement between *Lanfranc* Arch-Biſhop of *Canterbury*, and *Thomas* Arch-Biſhop of *York* about the Primacy; Nay, he was in the *London* Council holden in the Ninth of King *William*, *Anno Dom.* 1075. ſubſcribed it, *Spelm. Councils* 2. *vol. f.* 9. After the King (9.) heard of *Frederic*'s death in the Iſle of *Ely*, he took the Abby of St. *Albans* into his own hands, and ſo kept it, until Arch-Biſhop *Lanfranc* prevailed with him to make his Kinſman *Paul*, a *Norman* Monk, Abbat thereof, which was in the year of our Lord 1077. on the Twenty eighth of *June*, in the Eleventh year of the Conqueror, of whom *Mat. Paris* (1.) ſays, *Hic primus Abbas hujus Eccleſiæ fuit, poſtquam Anglia Normannis fuit penitus ſubjugata.* This was the firſt Abbat of this Church after *England* was entirely ſubdued by the *Normans*; ſo that this Teſtimony he brings from *Litchfield* Chronicle was before

(6.) M. Paris, *vit. Abb. f.* 49. *lin.* 3. and 2. 10.
(7.) *Malmſb. f.* 65. *b.* 2. 30.
(8.) *Ibid. f.* 66. *a.* 2. 10, 20.
(9.) *Mat Par. in vit. Abb. f.* 49. 2. 20, 30.
(1.) *Ibidem.*

he had setled himself as well as he could or intended, and therefore proves nothing, nor is it any ways to his purpose.

(2.) *Antinorm.* 107, 108.

His second Testimony is (2.) out of *Gervase* of *Canterbury*, *Col.* 1653. *lin.* 5. the words these, about the Election of Arch-Bishop *Lanfranc*; *Eligentibus eum senioribus ejusdem Ecclesiæ, cum Episcopis ac Principibus,* **Clero** & **Populo** *Angliæ in Curia Regis in Assumptione Sanctæ Mariæ.* The *Episcopi & Principes*, Bishops and Princes, the **Clerus** & **Populus**, the Clergy and People, or Laity, were in this place the same Persons, and only expressive one of another; and here is no mention either of *French* or *English*, so that this can be brought only to prove that there were great Councils or Parliaments in the time of the Conqueror, which no body denies; and if this were really a great Council, he gains nothing by it, for the meeting was about the Fourth of the Conqueror, some years before he had made an absolute Conquest, and upon that fixed himself in the Throne.

(3.) *Ibidem*, p. 108.

What he hath out of the short Account of King *William*, at the end of *Taylors* (3.) *Gavelkind*, concerning the promotion of *Lanfranc*, is of the same signification, though the words vary, and the Expressions are not the same; nor doth it prove more than the other, that any *English* were in this Council. The words are, (4.) *Rex mittens propter illum* (that is *Lanfranc*) *in Normanniam fecit eum venire in Angliam, eique consensu & auxilio omnium Baronum suorum, omniumque Episcoporum & Abbatum, totiusque populi Angliæ commisit ei Dorobernensem Ecclesiam.* From this confused Report of *Lanfranc*'s being made Arch-Bishop, there can nothing be collected, but that his Barons, that is his Temporal Barons, and the Bishops and Abbats, applauded and liked the Kings choice, as did also the other Laicks; for 'tis not to be supposed, that all the People in *England*, which our Author would have comprehended under the words, *Totius Populi*, or the hundredth part of them ever knew of, or understood *Lanfranc*'s being made Arch-Bishop; and a Man would wonder, if free choice, then signified as it doth now, how the *Saxon-English* Barons, Bishops, or the whole People, should choose a Stranger, a Person they had not known, a Monk first, then Prior of the Monastery of *Bec* in *Normandy*, afterwards by the Conqueror made an Abbat of the Monastery he had founded in *Caen*, and *Postpone* all their own deserving Countrymen, it will be somewhat difficult to conceive.

(4.) *Taylors Gavelk.* p. 194.

(5.) *Antinorm.* p. 108.

The third Testimony is from a (5.) General Council or Parliament (as he calls it) held at *Westminster* in the Fourteenth year of King *William*, in the Charter of Liberties he granted to that Monastery; in his Margin he cites a Cartulary out of *Cottons* Library, and *Dugdales Origines Jurisdiciales*, which cites that Manuscript.

(6.) *Council, Tom.* 2. *fol.* 14.

But Sir *Henry* (6.) *Spelman* hath it more fully in the year 1077. and the Eleventh of the Conqueror, whose words I will recite, which are somewhat more than our Author mentions, and for what he transcribes are the very same.

In Chartâ Willielmi primi A. 1077. *Monasterio Westmonasterienſi post Nomina Testium, Scilicit,* **Archiepiscoporum, Episcoporum, Comitum,** *&* **aliorum Seniorum,** *hæc pro authoritate Regis ad causas Eccles-*

aſcribed to *Edward* the Confeſſor, where 'tis ſaid, in the very ſame caſe, and upon the very ſame occaſion, That, *Habito Conſilio, precatui* **Baronum** *tandem acquievit*, at length King *William* taking Advice, or calling a Council, yielded to the Petition of his Barons; Or into *Hoveden*, where upon the very ſame matter and occaſion, he hath the very ſame words with thoſe in the Confeſſors Laws; ſo that from hence it is manifeſt, That *Communitas Anglorum*, and **Communitas Baronum** were then, and in theſe places, words of the ſame ſignification, and the Perſons intended by them, the ſame; that is, the Community of Barons, and not of the ordinary People.

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